



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Agenda

Town Council

Tuesday, June 10, 2025

7:30 PM

Council Chambers

or Immediately Following the Urban Renewal Authority Meeting

[Link to Watch or Comment Virtually: https://bit.ly/TC2025-2ndTuesday](https://bit.ly/TC2025-2ndTuesday)

I. Call Meeting to Order and Pledge of Allegiance

7:30 p.m.

II. Roll Call

III. Approval of the Agenda

IV. Consent Agenda

7:30-7:35 p.m.

[25-133](#) Approval of the May 20, 2025 Special Town Council Meeting Minutes

Attachments: [05-20-2025 Council Special Meeting Minutes](#)

[25-375](#) Approval of the May 27, 2025 Town Council Meeting Minutes

Attachments: [05-27-2025 Council Minutes](#)

[25-327](#) Juneteenth Proclamation, Sponsored by Council Member John Mortellaro

Attachments: [Proclamation](#)

[25-326](#) Pride Month Proclamation, Sponsored by Council Member Emily Baer

Attachments: [Proclamation](#)

[25-337](#) Pollinator Week Proclamation 2025; Sponsored by Council Member Pesaramelli

Attachments: [Proclamation](#)

[25-348](#) A Resolution of the Town Council of the Town of Erie Approving the Development Agreement for Erie Highlands Filing 17 and Accepting Dedications as shown on the Erie Highlands Filing 17 Minor Subdivision Plat

Attachments: [Resolution 25-097](#)
[Development Agreement](#)
[Erie Highlands Filing 17 Minor Subdivision Plat](#)
[Highlighted Public Improvements](#)

[25-169](#) A Resolution of the Town Council of the Town of Erie Approving a Consent to Assignment of a Development Agreement from Clayton Properties Group to TH Erie Highlands, LLC

Attachments: [Resolution 25-052](#)
[Consent to Assignment - Partially Executed](#)
[Assignment and Assumption of DA - Executed](#)
[Erie Highlands Filing 18 Development Agreement - Recorded](#)

[25-298](#) A Resolution of the Town Council of the Town of Erie Authorizing Town Staff to Apply for the Regional Transportation District's Partnership Grant

Attachments: [Resolution 25-084](#)
[2025 RTD Partnership Program](#)
[RTD Partnership Grant - Town of Erie - Application](#)
[Presentation](#)

[25-344](#) A Resolution of the Town Council of the Town of Erie Approving a Construction Contract with JOC Construction, LLC for the Kenosha Farms Culvert Repairs

Attachments: [Resolution 25-101](#)
[Contract](#)
[Budget Change Request](#)

[25-347](#) A Resolution of the Town Council of the Town of Erie Approving a Sixth Amendment to the Lease Agreement with Vector Air Management, LLC

Attachments: [Resolution 25-096](#)
[Sixth Amendment](#)
[Lease Agreement 12-12-2023](#)

[25-338](#) A Resolution of the Town Council of the Town of Erie Approving a General Services Agreement with Mr. Asphalt, LLC for Asphalt Maintenance Services

Attachments: [Resolution 25-098](#)
[Agreement](#)

[25-365](#) A Resolution of the Town Council of the Town of Erie Approving the Sixth Amendment to the Employment Agreement with Town Manager Malcolm Fleming to Increase the Compensation and Reduce the Severance

Attachments: [Resolution 25-108; Fleming 6th Amend-R060325](#)
[Fleming 6th Amend-A060525](#)
[Fleming 6th Amend-A060525 Redline](#)

V. Public Comment On Non-Agenda and Consent Items only.

7:35-7:45 p.m.

(This agenda item provides the public an opportunity to discuss items that are not on the agenda or consent agenda items only. The Town Council is not prepared to decide on matters brought up at this time, but if warranted, will place them on a future agenda.)

VI. General Business

[25-380](#) Presentation of 2025 ICSC Award for Excellence in Community Advancement

7:45-7:50 p.m.

*Presenter(s): Julian Jacquin, Director of Economic Development & TOEURA
Tyler Carlson, Evergreen Devco*

[25-295](#) A Resolution of the Town Council of the Town of Erie Adopting the Town Neighborhood Speed Management Program

Attachments: [Resolution 25-082](#)
[Presentation June 2025](#)
[Presentation January 2024](#)

7:50-7:55 p.m.

Presenter(s): Miguel Aguilar, Principal Transportation Planner

[25-294](#) A Resolution of the Town Council of the Town of Erie Approving the State of Colorado Subaward Agreement for Erie Flex Ride

Attachments: [Resolution 25-081](#)
[CDOT Subaward Agreement 5307](#)
[Presentation](#)

7:55-8:00 p.m.

Presenter(s): Miguel Aguilar, Principal Transportation Planner

[25-218](#) A Resolution of the Town Council of the Town of Erie Approving an Intergovernmental Agreement with Weld County for Home Water Audit Services

Attachments: [Resolution 25-090](#)
[Weld County Water Assess IGA](#)

8:00-8:05 p.m.

*Presenter(s): Dylan King, Sustainability and Water Conservation Specialist
Eryka Thorley, Sustainability Manager*

[25-339](#) A Resolution of the Town Council of the Town of Erie Approving an Agreement for Transfer of Federal Entitlement Funds from the Erie

Municipal Airport to the Fremont County Airport

Attachments: [Resolution 25-094](#)
[Transfer Agreement](#)

8:05-8:10 p.m.

*Presenter(s): Todd Fessenden, Utilities Director
 David Pasic, Public Works Director*

[25-349](#)

1. A Resolution of the Town Council of the Town of Erie Approving a Site Plan Agreement for Village Cooperative of Erie; and 2. A Resolution of the Town Council of the Town of Erie Approving a Permanent Easement Agreement with Village Cooperative of Erie

Attachments: [Resolution 25-099](#)
[Resolution 25-100](#)
[Site Plan Agreement](#)
[Permanent Easement Agreement](#)

8:10-8:15 p.m.

Presenter(s): Harry Brennan, Senior Planner

[25-335](#)

Public Hearing: An Ordinance of the Town Council of the Town of Erie Amending Title 10 of the Erie Municipal Code Regarding Accessory Dwelling Units, Assembly Uses, and Minimum Parking

Attachments: [Ordinance No. 018-2025](#)
[PC Resolution No. P25-05](#)
[Staff Report](#)
[Staff Presentation](#)
[HB24-1152](#)
[HB24-1304](#)
[Publication Notice](#)

8:15-9:00 p.m.

*Presenter(s): Sarah Nurmela, Planning & Development Director
 Kelly Driscoll, Planning Manager
 Chris LaRue, Principal Planner*

VII. Council Member Reports and Announcements

9:00-9:15 p.m.

VIII. Executive Session

[25-389](#)

EXECUTIVE SESSION: (1) To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(c); and to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a); all regarding the Erie Town Center; and (2) To hold a conference with the Town Attorney to

receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(c); and to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a); all regarding the purchase and sale agreement with Tebo Properties LLC.

9:15-10:15 p.m.

IX. Adjournment

10:15 p.m.

(The Town Council'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

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-133, **Version:** 1

SUBJECT:

Approval of the May 20, 2025 Special Town Council Meeting Minutes

DEPARTMENT: Administration

PRESENTER(S): Debbie Stamp, Town Clerk

STAFF RECOMMENDATION:

Approve the minutes from the May 20, 2025 Special Town Council Meeting.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Effective Governance

ATTACHMENT(S):

1. 05-20-2025 Special Town Council Meeting Minutes



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Minutes

Town Council

Tuesday, May 20, 2025

6:30 PM

Council Chambers

Special Meeting at 6:30 p.m.

Link to Watch or Comment Virtually: <https://bit.ly/4iYwQgh>

I. Call Meeting to Order and Pledge of Allegiance

Mayor Moore called the meeting to order at 6:31 p.m.

II. Roll Call

Present: 7 - Mayor Moore, Mayor Pro Tem Bell, Council Member Pesaramelli, Council Member O'Connor, Council Member Baer, Council Member Mortellaro and Council Member Hoback

III. Approval of the Agenda

Council Member Hoback made a motion to approve the agenda. Mayor Pro Tem Bell seconded the motion. The motion passed by the following vote at 6:32 p.m.

Ayes 7 - Mayor Moore
Mayor Pro Tem Bell
Council Member Pesaramelli
Council Member O'Connor
Council Member Baer
Council Member Mortellaro
Council Member Hoback

IV. General Business

[25-329](#) Update to Building Code - Sprinkler Requirement for Residential

Attachments: [Presentation](#)

Deborah Bachelder, Deputy Planning & Development Manager, introduced the item at 6:33 p.m.

Joel Champagne, Deputy Building Official, presented the item at 6:34 p.m.

Mayor Moore made motion to direct staff to bring back the repealing of fire sprinkler ordinance for single family, duplex and townhomes, to provide clarity on the insurance benefit or cost, to provide clarity on the actual installed cost on average for a 2,000 sq ft home, to indicate whether there would be any builder savings if you put in a sprinkler system and to give staff the leeway for any

setback incentives that would help this discussion. Mayor Pro Tem Bell seconded the motion. The motion passed by the following vote at 8:52 p.m.

Ayes 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro
 Council Member Hoback

Nayes 1 - Council Member Pesaramelli

[25-318](#) Future Parks Funding Options and Direction

Attachments: [Presentation](#)

This item will be discussed at a later meeting to be determined later this week.

[25-312](#) Air Quality Monitoring Discussion

Attachments: [Staff Presentation](#)

[Boulder AIR Presentation](#)

[Ajax Analytics Presentation](#)

[Bouder AIR Anchor Station Cost Proposal](#)

[Boulder AIR Dispersed Summa Canister Sampling Network Cost Proposal](#)

[Ajax Analytics Dispersed Summa Canister Sampling Network Cost Proposal](#)

David Frank, Director of Environmental Services, introduced the item at 9:04 p.m.

Detlev Helmig, Boulder AIR, presented the item at 9:07 p.m.

Mayor Moore made a motion to pre-allocate \$300K to the 2026 budget. The \$300K would be allocated to give flexibility to keep the Centralized Boulder Air Station and purchase canisters as needed. For the 2025 budget impact that the supplemental would come back somewhere in the range of \$50,000 additional dollars giving complete flexibility. Mayor Pro Tem Bell seconded the motion. The motion passed by the following vote at 10:28 p.m.

Ayes 7 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro
 Council Member Hoback

[25-171](#) Discussion of Oil and Gas in Erie

Attachments: [List of Plugged and Abandoned Wells by Date Plugged](#)
[Oil and Gas Presentation](#)

This item will be discussed at a later meeting to be determined later this week.

V. Adjournment

Mayor Moore adjourned the meeting at 10:29 p.m.



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-375, **Version:** 1

SUBJECT:

Approval of the May 27, 2025 Town Council Meeting Minutes

DEPARTMENT: Administrative Operations

PRESENTER(S): Debbie Stamp, Town Clerk

TIME ESTIMATE: 0 minutes

For time estimate: please put 0 for Consent items.

FISCAL SUMMARY:

NA

POLICY ISSUES:

NA

STAFF RECOMMENDATION:

Approve the minutes from the May 27, 2025 Town Council Meeting

SUMMARY/KEY POINTS

NA

BACKGROUND OF SUBJECT MATTER:

NA

TOWN COUNCIL PRIORITY(S) ADDRESSED:

- Attractive Community Amenities
- Engaged and Diverse Community
- Prosperous Economy
- Well-Maintained Transportation Infrastructure
- Small Town Feel
- Safe and Healthy Community
- Effective Governance
- Environmentally Sustainable

File #: 25-375, **Version:** 1

Fiscally Responsible

ATTACHMENT(S):

05-20-2025 Town Council Meeting Minutes



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Minutes

Town Council

Tuesday, May 27, 2025

6:30 PM

Council Chambers

Link to Watch or Comment Virtually: <https://bit.ly/TC2025-4thTuesday>

I. Call Meeting to Order and Pledge of Allegiance

Mayor Moore called the meeting to order at 6:30 p.m.

II. Roll Call

Present: 6 - Mayor Moore, Mayor Pro Tem Bell, Council Member Pesaramelli, Council Member O'Connor, Council Member Baer, and Council Member Mortellaro

Absent: 1 - Council Member Hoback

III. Approval of the Agenda

Mayor Pro Tem Bell made a motion to approve the Agenda. Council Member O'Connor seconded the motion. The motion passed by the following vote at 6:32 p.m.

Ayes 6 - Mayor Moore
Mayor Pro Tem Bell
Council Member Pesaramelli
Council Member O'Connor
Council Member Baer
Council Member Mortellaro

Absent 1 - Council Member Hoback

IV. Consent Agenda

[25-325](#) Approval of the May 6, 2025 Special Meeting Minutes

Attachments: [05-06-2025 Special Meeting Minutes](#)

[25-132](#) Approval of the May 13, 2025 Town Council Meeting Minutes

Attachments: [05-13-2025 Council Minutes](#)

[25-350](#) National Gun Violence Awareness Day Proclamation; Sponsored by Mayor Moore

Attachments: [Proclamation](#)

[25-275](#) A Resolution of the Town Council of the Town of Erie Approving a Construction Contract with Asphalt Specialties Co. Inc. for the 2025 Street Maintenance Phase 1

Attachments: [Resolution 25-086](#)
[Contract](#)

[25-276](#) A Resolution of the Town Council of the Town of Erie Approving a Construction Contract with Asphalt Specialties Co. Inc. for the 2025 Street Maintenance Phase 2

Attachments: [Resolution 25-087](#)
[Contract](#)

[25-323](#) A Resolution of the Town Council of the Town of Erie Approving the First Amendment to the Development Agreement for Canyon Creek Filing No. 7

Attachments: [Resolution No. 25-091](#)
[First Amendment to Development Agreement for Canyon Creek Filing No. 7](#)
[Original recorded Development Agreement Canyon Creek Filing No. 7](#)

[25-324](#) A Resolution of the Town Council of the Town of Erie Approving the First Amendment to the Development Agreement for Canyon Creek Filing No. 8

Attachments: [Resolution No. 25-092](#)
[First Amendment to Development Agreement for Canyon Creek Filing No. 8](#)
[Original recorded Development Agreement Canyon Creek Filing No. 8](#)

[25-319](#) A Resolution of the Town Council of the Town of Erie Accepting Dedications as shown on the Lindow Minor Subdivision Plat

Attachments: [Resolution 25-089](#)
[Minor Subdivision Plat](#)

[25-315](#) An Ordinance of the Town Council of the Town of Erie Adopting Updates to the Purchasing Policy

Attachments: [Ordinance 015-2025](#)
[Updated Purchasing Policy](#)
[ToE Purchasing Policy-Revised April 2024](#)

Council Member Mortellaro made a motion to approve the Consent Agenda. Mayor Pro Tem Bell seconded the motion. The motion passed by the following vote at 6:33 p.m.

Ayes 6 - Mayor Moore
Mayor Pro Tem Bell
Council Member Pesaramelli
Council Member O'Connor
Council Member Baer
Council Member Mortellaro

Absent 1 - Council Member Hoback

V. Public Comment On Non-Agenda and Consent Items only.

Mayor Moore read the Public Comment rules and opened Public Comment at 6:34 p.m.

The following spoke:

1. Briana Brown spoke about Compass Park.

With no additional speakers in-person or online virtually, the Mayor closed Public Comment at 6:38 p.m.

VI. General Business

[25-046](#)

PUBLIC HEARING: 1) An Ordinance of the Town Council of the Town of Erie Approving the Parkdale North PD Amendment; and 2) A Resolution of the Town Council of the Town of Erie Approving the Parkdale North Preliminary Plat No. 4

Attachments: [Staff Report](#)
[Staff Presentation](#)
[Applicant Presentation](#)
[Letter from BVSD](#)
[Comments from Director of Parks and Recreation](#)
[Overall Parkdale Parks and Open Space Exhibit](#)
[Parkdale North PD Amendment](#)
[Parkdale Preliminary Plat No.4](#)
[Application and Narrative](#)
[Additional Application Materials](#)
[Additional Application Materials 2](#)
[Additional Application Materials 3](#)
[Additional Application Materials 4](#)
[Combined DRT Comments](#)
[Planning Commission 12-18_24 Meeting Minutes](#)
[PC Resolutions](#)
[Neighborhood Meeting Summary](#)
[Public Hearing Notices](#)
[Ordinance 005-2025](#)
[Resolution 25-018](#)
[Parkdale Public Comment Received as of 5/9/25](#)

Mayor Moore opened the Public Hearing at 6:40 p.m.

Harry Brennan, Senior Planner, presented the item at 6:41 p.m.

John Prestwich, PCS Group, presented at 6:54 p.m.

Chris Elliott, PCS Group, offered some final thoughts at 7:13 p.m.

The following spoke:

1. Nell Ganle signed up to speak but did not show.
2. Thomas Wendorff
3. Roxana Cazan
4. Charlie Menke
5. Samuel Badger

With no additional speakers in-person or online virtually, Mayor Moore closed the Public Hearing at 8:35 p.m.

Council Member Baer made a motion to approve Ordinance 005-2025. Council Member Mortellaro seconded the motion. The motion passed by the following vote at 8:47 p.m.

- Ayes** 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

- Absent** 1 - Council Member Hoback

Council Member Pesaramelli made a motion to approve Resolution 25-018. Council Member Mortellaro seconded the motion. The motion passed by the following vote at 8:47 p.m.

- Ayes** 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

- Absent** 1 - Council Member Hoback

[25-036](#)

Presentation by Erie Four Corners Business Improvement District (BID) and Consideration of An Ordinance of the Town Council of the Town of Erie Filling One Vacancy on the Board of Directors of the Four Corners Business Improvement District

- Attachments:** [Ordinance 02-2025](#)
[Request from Four Corners BID Board of Directors](#)
[Qualifications of New BID Board Member Walter Pounds](#)
[Qualifications of Existing BID Board Members](#)
[Erie Four Corners BID Presentation](#)

Julian Jacquin, Director of Economic Development & TOEURA, introduced the item at 8:59 p.m.

David Starnes, Walter Pounds, and CJ Kirst, Erie Four Corners LLC, presented the item at 9:01 p.m.

Council Member Baer made a motion to approve Ordinance 02-2025. Mayor Pro Tem Bell seconded the motion. The motion passed by the following vote at 9:13 p.m.

- Ayes** 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

- Absent** 1 - Council Member Hoback

[25-291](#)

A Resolution of the Town Council of the Town of Erie Approving an Amendment to Professional Services Agreement with Dig Studio for the Village at Coal Creek Planning Services

Attachments: [Resolution 25-093](#)
[Amendment to Dig Studio Professional Services Agreement](#)
[Original Dig Studio Professional Services Agreement](#)

Aly Burkhalter, Senior Planner, presented the item at 9:15 p.m.

Council Member Mortellaro made a motion to approve Resolution 25-093. Council Member Pesaramelli seconded the motion. The motion passed by the following vote at 9:17 p.m.

Ayes 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

Absent 1 - Council Member Hoback

[25-351](#)

Town of Erie, City of Lafayette, and Tebo Properties Land Purchase and Sale Agreements:

1. A Resolution of the Town Council of the Town of Erie Approving a Purchase and Sale Agreement with the City of Lafayette
2. A Resolution of the Town Council of the Town of Erie Approving a Purchase and Sale Agreement with Tebo Partnership LLLP

Attachments: [Resolution 25-105; Lafayette PSA-R052325](#)
[Resolution 25-104; Tebo PSA-R052325](#)
[Lafayette PSA-A052325](#)
[Tebo PSA-A052325](#)
[Presentation-Tebo-Lafayette-Erie](#)

Patrick Hammer, Deputy Town Manager, presented the item at 9:18 p.m.

Mayor Pro Tem Bell made a motion to approve Resolution 25-104. Council Member Mortellaro seconded the motion. The motion passed by the following vote at 9:38 p.m.

Ayes 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

Absent 1 - Council Member Hoback

Council Member Mortellaro made a motion to approve Resolution 25-105. Council Member O'Connor seconded the motion. The motion passed by the following vote at 9:39 p.m.

Ayes 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

Absent 1 - Council Member Hoback

[25-314](#) A Resolution of the Town Council of the Town of Erie Approving the Town of Erie Economic Incentives Policy

Attachments: [Resolution 25-083](#)
[Town of Erie Economic Incentives Policy](#)
[Economic Incentives Policy Presentation](#)

Jack Hill, Business Development Specialist, and Julian Jacquin, Economic Development Director, presented the item at 9:41 p.m.

Council Member Mortellaro made a motion to approve Resolution 25-083. Mayor Pro Tem Bell seconded the motion. The motion passed by the following vote at 9:58 p.m.

Ayes 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

Absent 1 - Council Member Hoback

VII. Staff Reports

[25-346](#) Planning & Development Monthly Report - April 2025

Attachments: [Monthly Report - April 2025](#)

[25-153](#) Environmental Services Staff Report for April 2025

Attachments: [Staff Report](#)

VIII. Council Member Reports and Announcements

Council Members congratulated all the high school seniors who graduated this past weekend, spoke about 2025 ICSC in Las Vegas, Memorial Day Service at Mount Pleasant Cemetery sponsored by Boy

Scout Troop 62, great job at the Town Fair last weekend, Erie Pride 12-4 at Coal Creek Park on Sunday June 1st, Foothills Dog Park 800 Cherry Avenue in Boulder allows walking your dog off leash, and Farmer's Market every Thursday.

IX. Executive Session

[25-352](#)

EXECUTIVE SESSION: To consider personnel matters, pursuant to C.R.S. § 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, and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e), concerning the Town Manager's evaluation and contract.

Mayor Pro Tem Bell made a motion to go into Executive Session. Council Member Mortellaro seconded the motion. The motion passed by the following vote at 10:18 p.m.

Mayor Moore announced that the meeting would adjourn at the end of the Executive Session.

- Ayes** 6 - Mayor Moore
 Mayor Pro Tem Bell
 Council Member Pesaramelli
 Council Member O'Connor
 Council Member Baer
 Council Member Mortellaro

- Absent** 1 - Council Member Hoback

X. Adjournment

Approved _____
Mayor

Attest _____
Town Clerk



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-327, **Version:** 1

SUBJECT:

Juneteenth Proclamation, Sponsored by Council Member John Mortellaro

DEPARTMENT: Human Resources

PRESENTER(S): Kat Hazel-Shimko, Human Resources Business Partner
Council Member John Mortellaro, Sponsor

FISCAL SUMMARY: N/A

STAFF RECOMMENDATION:

Approve the Proclamation

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Juneteenth commemorates the emancipation of enslaved African Americans in the United States, specifically marking June 19, 1865, when Union General Gordon Granger announced freedom to the last enslaved people in Texas, two and a half years after the Emancipation Proclamation was signed. It is a day to honor freedom, Black culture, resilience, and community across the nation with various celebrations including cultural events, educational discussions, and joyful gatherings.

This year's theme, "A Reckoning: Reclaiming the Past, Remembering Black Voices, and Reshaping the Future" centers on reflection, reconciliation, and reshaping the future through a deeper understanding of American history's complexities.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Engaged and Diverse Community
- ✓ Small Town Feel
- ✓ Safe and Healthy Community

ATTACHMENT(S):

1. Proclamation



Juneteenth Proclamation

Whereas, Juneteenth, celebrated on June 19, marks the historic date in 1865 when enslaved African Americans in Galveston, Texas, finally received the news of their freedom, two and a half years after the Emancipation Proclamation was issued by President Abraham Lincoln; and

Whereas, Juneteenth serves as a powerful reminder of the long journey towards equality and justice for all African Americans, as well as a time to reflect on the painful legacy of slavery and the systemic racism that continues to affect our society; and

Whereas, this day commemorates the resilience, strength, and contributions of the African American community throughout history, while also recognizing the ongoing struggle for civil rights and equity; and

Whereas, Juneteenth encourages conversations about the significance of freedom, self-determination, and respect for diversity, and calls upon all individuals to reaffirm their commitment to understanding and addressing the issues of racial injustice and inequality; and

Whereas, this year's theme, "A Reckoning: Reclaiming the Past, Remembering Black Voices, and Reshaping the Future" centers on reflection, reconciliation, and reshaping the future through a deeper understanding of American history's complexities; and

Whereas, on June 17, 2021, President Joe Biden signed the Juneteenth National Independence Day Act into law establishing June 19 as a federal holiday commemorating the end of slavery in the United States and symbolizing the importance of this day in our nation's history and its significance in the ongoing pursuit of liberty and justice for all.

Now, therefore, I, Council Member John Mortellaro on behalf of Mayor Andrew J. Moore, do hereby proclaim that Juneteenth be celebrated on June 19, 2025, and I ask all residents in the Town of Erie to observe this month with appropriate ceremonies, activities, and programs.

Dated this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Deputy Town Clerk



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-326, **Version:** 1

SUBJECT:

Pride Month Proclamation, Sponsored by Council Member Emily Baer

DEPARTMENT: Human Resources

PRESENTER(S): Kat Hazel-Shimko, Human Resources Business Partner
Council Member Emily Baer, Sponsor

FISCAL SUMMARY: N/A

STAFF RECOMMENDATION:

Approve the Proclamation

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Pride Month is celebrated every June to honor the LGBTQIA+ community's history, achievements, and ongoing struggles for equal rights. The observance originated from the Stonewall Riots, which took place in June 1969 at the Stonewall Inn in New York City. In 1999, President Bill Clinton officially declared June as "Gay and Lesbian Month" which later expanded to "LGBT Pride Month".

The proclamation encourages individuals to celebrate their identities, advocate for equality, and support efforts against discrimination and injustice.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Engaged and Diverse Community
- ✓ Small Town Feel
- ✓ Safe and Healthy Community

ATTACHMENT(S):

1. Proclamation



Pride Month Proclamation

Whereas, June is recognized as Pride Month, a time to celebrate the achievements and contributions of the LGBTQIA+ community, and to promote equal rights and opportunities for all individuals, regardless of their sexual orientation or gender identity; and

Whereas, Pride Month commemorates the history and struggles of LGBTQIA+ individuals, honors the resilience of those who have fought for justice and equality, and pays tribute to those who have lost their lives to violence and discrimination; and

Whereas, we acknowledge that the journey toward full acceptance and equality for LGBTQIA+ individuals continues, and it is our duty to advocate for policies and practices that protect the rights of all citizens; and

Whereas, diversity strengthens our communities, and embracing and supporting the LGBTQIA+ community fosters a culture of inclusion, respect, and understanding; and

Whereas, this month marks the anniversary of the Stonewall Riots, which began on June 28, 1969, and is widely regarded as a catalyst for the modern LGBTQIA+ rights movement, igniting a national and international call for equality and justice; and

Whereas, this year's theme, "The Fabric of Freedom" invites the community to reflect on unity while serving as a global call to action of LGBTQIA+ people and their allies to celebrate the vibrancy of the community; and

Whereas, on June 11, 1999, President Bill Clinton signed Proclamation 7203, officially recognizing the first "Gay and Lesbian Month" which later evolved to "LGBT Pride Month" which aimed to promote dignity, respect, and equal rights for all individuals regardless of their sexual orientation or gender identity; and

Now, therefore, I, Council Member Emily Baer on behalf of Mayor Andrew J. Moore, do hereby proclaim that Pride Month be celebrated from June 1-30, 2025, and I ask all residents in the Town of Erie to observe this month with appropriate ceremonies, activities, and programs.

Dated this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Deputy Town Clerk



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-337, **Version:** 1

SUBJECT:

Pollinator Week Proclamation 2025; Sponsored by Council Member Pesaramelli

DEPARTMENT: Environmental Services

PRESENTER(S): Karen Winkler, Sustainability Advisory Board Chair
Council Member Anil Pesaramelli, Sponsor
Eryka Thorley, Sustainability Manager

TIME ESTIMATE: 0 minutes

POLICY ISSUES:

Habitat loss in Erie affects pollinators and biodiversity within our community. Erie benefits from adopting a strong pollinator protection strategy that protects native pollinators by restoring and connecting their habitats throughout Erie and beyond. This proclamation supports actions necessary for healthy and sustainable pollinator populations alongside community-driven actions to protect imperiled native pollinators.

STAFF RECOMMENDATION:

Approve this proclamation concerning vital pollinators in the Town of Erie.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The declining pollinator population is an urgent issue affecting the health of natural ecosystems and agricultural productivity. Nearly 25% of native bee species are imperiled and there is increasing risk of extinction for other pollinators including the monarch butterfly population which is experiencing declines of 74-80% in populations both east and west of the Rocky Mountains. Pollinators in the U.S. including thousands of species of native bees, butterflies, and additional species of insects, birds, and bats, are essential for pollinating 75% of all flowering plants and contribute an estimated \$29 billion to farm income annually. These species are integral to our quality of life, economic resiliency, and the vitality of our natural environment.

As our community grows, Erie is well positioned to adopt policies and practices that support biodiversity and pollinator protection through thoughtful management of parks, public landscapes,

and other public lands. Erie can champion conservation stewardship when providing recommendations to developers and residents that include protection of pollinators and natural habitat maintenance.

The Sustainability Advisory Board, in conjunction with the Sustainability Division, is pursuing ways that community-based engagement can increase awareness of the vital role pollinators play in our environment. There are several initiatives underway with the goal to safeguard native pollinators and their habitats including: collaborating with Erie's Parks Division to build a comprehensive map of pollinator-friendly greenscapes, engaging with Erie residents to add private gardens and greenscapes to a map to identify and support pollinator corridors and the areas that would benefit from increased focus, and surveying existing habitats to derive data that can assist in understanding Erie's natural environment.

By establishing frameworks for guidelines and consistency, allocating resources, creating accountability structures that influence behavior, Erie seeks to drive positive change in the community and incentivize residents to learn more about native pollinators. Residents can also learn more about their role in sustaining a healthy ecosystem in Erie, as well as establishing beautiful landscapes across our community. Staff and the Sustainability Advisory Board will continue seeking partnerships, grants, and other funding opportunities to encourage community-led habitat creation and education initiatives.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Attractive Community Amenities
- ✓ Engaged and Diverse Community
- ✓ Prosperous Economy
- ✓ Small Town Feel
- ✓ Safe and Healthy Community
- ✓ Effective Governance
- ✓ Environmentally Sustainable

ATTACHMENT(S):

1. Proclamation



Pollinator Week Proclamation

WHEREAS, in 2024, Governor Polis proclaimed the month of June as Colorado Pollinator Month and in 2008, with then U.S. Representative Polis, Congress unanimously approved and designated a week in June as “National Pollinator Week”; and

WHEREAS, the declining pollinator population is an urgent issue affecting the health of natural ecosystems and agricultural productivity, with nearly 25% of native bee species imperiled and at increasing risk of extinction and the monarch butterfly population experiencing declines of 74–80% in populations both east and west of the Rocky Mountains; and

WHEREAS, pollinators in the U.S. including thousands of species of native bees, butterflies, and additional species of insects, birds, and bats, are essential to pollinating 75% of all flowering plants and contribute an estimated \$29 billion to farm income annually and are integral to our quality of life, economic resiliency, vitality of our natural environment; and

WHEREAS, the Town of Erie’s Sustainability Advisory Board is focused on pollinator support through education and outreach on the importance of pollinators, including native bees, in maintaining a healthy ecosystem, the pursuit of Pollinator District Certification, and the mapping of public and private pollinator habitats; and

WHEREAS, the Town of Erie Parks & Recreation Department manages parks, public landscaping, and other public lands that include greenways and wildlife habitats; and

WHEREAS, the Town of Erie provides recommendations to developers and residents regarding landscaping to promote wise conservation stewardship, including the protection of pollinators and maintenance of their habitats.

NOW, THEREFORE, I, Council Member Anil Pesaramelli, on behalf of Mayor Andrew J. Moore, do hereby proclaim the week of June 16 through June 22, 2025, as Pollinator Week. I urge Town residents to learn more, take action, and work together to protect and support pollinator health in our community and beyond.

DATED THIS 10TH DAY OF JUNE 2025

Andrew J. Moore, Mayor

ATTEST:

Debbie Stamp, Town Clerk



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-348, **Version:** 1

SUBJECT: Consent Agenda

A Resolution of the Town Council of the Town of Erie Approving the Development Agreement for Erie Highlands Filing 17 and Accepting Dedications as shown on the Erie Highlands Filing 17 Minor Subdivision Plat

DEPARTMENT: Planning and Development

PRESENTER: Harry Brennan, Senior Planner

FISCAL IMPACT: N/A.

POLICY ISSUES:

Staff's analysis indicates the proposed dedications are consistent with Town Charter, Municipal Code, and the Council's priorities. Approving the Resolution will confirm Council's agreement with staff's analysis and conclusions.

STAFF RECOMMENDATION:

Accept the dedications shown on the Erie Highlands Filing 17 Minor Subdivision Plat and approve the Development Agreement.

ACTION ITEMS

The Town Council is the approval body for the Development Agreement and the acceptance of dedications as shown on the Minor Subdivision Plat.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The subject property is located south of Erie Parkway, between Glacier Drive and Weld County Road 5.

The proposed Minor Subdivision Plat establishes one new commercial lot and leaves the remainder of the site as a Tract for future development. The plat also lays out easements, utilities, and infrastructure for forthcoming commercial development.

The development does not require or provide any new public right of way dedication. However, the plat dedicates new public utility easements and public access easements to facilitate future development. Key public improvements associated with this plat include:

- Construction of a new traffic signal at Glacier Drive and Erie Parkway

- Construction of a new deceleration lane for southbound vehicles on Weld County Road 5 turning into this development
- Construction of the private Highlands Drive

The Town will require future Minor Subdivision Plat application(s) to establish additional developable lots.

Erie Highlands Filing 17 Minor Subdivision Plat

Development Information:

- Plat Size: 12.7 acres
- Number of Lots: 1
- Number of Tracts: 1

COUNCIL PRIORITY(S) ADRESSED:

- ✓ Prosperous Economy
- ✓ Well-Maintained Transportation Infrastructure

ATTACHMENTS:

1. Resolution No. 25-097
2. Erie Highlands Filing 17 Minor Subdivision Plat
3. Erie Highlands Filing 17 Development Agreement
4. Highlighted Public Improvements

**Town of Erie
Resolution 25-097**

**A Resolution of the Town Council of the Town of Erie Approving
the Development Agreement for Erie Highlands Filing 17 and
Accepting Dedications as Shown on the Erie Highlands Filing 17
Minor Subdivision Plat**

Whereas, on December 15, 2021, Evergreen-CR 5 & Erie Parkway, L.L.C., filed an application for approval of the Erie Highlands Filing 17 Minor Subdivision (the "Minor Plat");

Whereas, on June 9, 2025, the Planning and Development Director conditionally approved the Minor Plat, on the condition that the Town Council accepts all dedications as shown on the Minor Plat;

Whereas, on June 10, 2025, the Town Council considered the acceptance of the dedications as shown on the Minor Plat; and

Whereas, the Town Council desires to accept the dedications as shown on the Minor Plat.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Town Council hereby accepts the dedications shown on the Minor Plat.

Section 2. The Town Council hereby approves the Development Agreement for the Erie Highlands Filing 17 in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Development Agreement on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Development Agreement
(Erie Highlands Filing No. 17)

This Development Agreement (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and Evergreen-CR 5 & Erie Parkway, L.L.C., an Arizona limited liability company, with an address of 2390 East Camelback Road, Suite 410, Phoenix, AZ 85016 ("Developer") (each a "Party" and collectively the "Parties").

Whereas, Developer is the owner of the real property more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property");

Whereas, Developer wishes to develop the Property (the "Development"), and has filed an application for approval of a final plat for Erie Highlands Filing No. 17 (the "Final Plat");

Whereas, the Property is subject to the Development Agreement (Erie Highlands Filing No. 14 and Filing No. 15) dated April 28, 2020 and recorded in the real property records of Weld County, Colorado on May 1, 2020 at Reception No. 4587177 (as amended, the "Filing 14 DA");

Whereas, Developer's predecessor-in-interest in and to the Property satisfied all obligations of the Property under the Filing 14 DA as evidenced by letters from the Town dated February 14, 2023, and August 13, 2023;

Whereas, as of the Effective Date, this Agreement shall control the Property in lieu of the Filing 14 DA; and

Whereas, the Parties acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town in connection with its approval of the Development, and that such matters are necessary to protect, promote and enhance the public health, safety and welfare.

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions under which the Development may proceed. All provisions of this Agreement are in addition to, and not in lieu of, any requirements of the Erie Municipal Code (the "Code") and other applicable law.
2. District. The Town acknowledges that Developer has formed or may form one or more metropolitan districts (collectively the "District") for the purpose of providing facilities and services for the Development, either independently or as Developer's designee under this Agreement. Notwithstanding anything contained in this Agreement

to the contrary, any obligation of Developer under this Agreement may be performed by or on behalf of the District, provided that the District will be bound by this Agreement for any obligations that it undertakes on behalf of Developer.

3. Construction of Improvements.

a. *General.* Developer shall, at its own expense, design, construct and install all public improvements necessary for the Development, including without limitation streets, alleys, curbs, gutters, sidewalks, landscaping, irrigation, fencing, street lights, water, waste water, storm sewer and drainage facilities, and trails and park improvements (collectively the "Improvements"). A list of the required Improvements is set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. Omission of any necessary Improvement from **Exhibit B** does not relieve Developer from responsibility for furnishing, installing or constructing such Improvement.

b. *Construction Standards.* Developer shall construct the Improvements in accordance with plans approved by the Town (the "Plans"), as well as the Town's Standards and Specifications for Design and Construction of Public Improvements (the "Standards"). Developer shall furnish, at its expense, all necessary engineering and consulting services relating to the design and construction of the Improvements. These services shall be performed by or under the supervision of a professional engineer licensed in the State of Colorado.

c. *Public Improvement Permit.* Before the construction of any Improvements, Developer shall obtain a Public Improvement Permit ("PIP") from the Town as provided in the Code. Developer shall reimburse the Town for any expenses incurred by the Town for review of the application or associated documents. Unless otherwise approved by Town, overlot grading shall not be initiated until the Town approves drainage plans by the issuance of the PIP.

d. *Testing and Inspection.* Developer shall employ, at its own expense, a licensed testing company to perform all testing of materials or construction reasonably required by the Town. Developer shall furnish copies of test results to the Town on a timely basis. At all times during construction, the Town shall have access to inspect materials and work, and all materials and work not conforming to the Plans or Standards shall be repaired or removed and replaced at Developer's expense.

e. *Rights-of-way and Easements.* Prior to construction of any Improvements that require additional rights-of-way or easements, Developer shall acquire at its own expense all such rights-of-way and easements. Any easements or rights-of-way conveyed to the Town shall be free and clear of liens, taxes and encumbrances and shall be conveyed on documents in a form acceptable to the Town.

f. *Permits.* Developer shall, at its own cost, obtain the following permits, as applicable:

- i. Any permits required by the United States Corps of Engineers.
- ii. Colorado Department of Health and Environment General Permit for Stormwater Discharges Associated with Construction Activity.
- iii. Grading, stormwater quality and right-of-way permits.
- iv. Air quality permit.
- g. *As-Built Drawings.* Upon completion of construction of the Improvements, Developer shall provide the Town with complete "as-built" drawings in the form required by the Standards.
- h. *Applicable Law.* Developer shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.
- i. *Accessibility.* Developer shall comply with the accessibility standards for an individual with a disability adopted by the State Office of Information Technology pursuant to C.R.S. § 24-85-103, and shall indemnify, hold harmless and assume liability on behalf of the Town and its officers, employees, agents and attorneys for all costs, expenses, claims, damages, liabilities, court awards, attorney fees and related costs, and any other amounts incurred by the Town in relation to Developer's noncompliance with such accessibility standards.

4. Acceptance of Improvements and Warranty.

a. *Initial Acceptance.* No later than 10 days after Improvements are substantially complete, Developer shall request an inspection by the Town. If Developer does not request this inspection, the Town may conduct the inspection without Developer's approval. All Improvements shall receive Initial Acceptance on or before June 30, 2027, subject to force majeure.

- i. If the Improvements are satisfactory, the Town shall grant Initial Acceptance.

ii. If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the repairs, replacements, construction or other work required to receive Initial Acceptance. Developer shall complete all needed repairs, replacements, construction or other work within 30 days of said notice. After Developer completes the repairs, replacements, construction or other work required, Developer shall request of the Town a re-inspection of such work to determine if Initial Acceptance can be granted, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. If Developer does not complete the repairs, replacements, or other work required within 30 days, Developer shall be in breach of this Agreement. The costs of re-inspection shall be borne by Developer.

b. *Final Acceptance.* At least 30 days before 2 years has elapsed from the issuance of Initial Acceptance, or as soon thereafter as weather permits, Developer shall request an inspection by the Town. If Developer does not request this inspection, the Town may conduct the inspection without Developer's approval.

i. If the Improvements are satisfactory, the Town shall grant Final Acceptance.

ii. If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the work required to receive Final Acceptance. After Developer completes such work, Developer shall request a re-inspection, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work. If Developer does not complete the required work in an acceptable manner within 30 days, Developer shall be in breach of this Agreement.

c. *Warranty.* For all Improvements to be dedicated to the Town, Developer shall provide the Town with a 2-year warranty, commencing on the date of Initial Acceptance (the "Warranty Period"). Specifically, but not by way of limitation, Developer shall warrant that: the title is marketable and its transfer rightful; the Improvements are free from any security interest or other lien or encumbrance; and the Improvements are free of defects in materials or workmanship. During the Warranty Period, Developer shall, at its own expense, take all actions necessary to maintain the Improvements and make all necessary repairs or replacements.

5. Maintenance.

a. *Improvements.* Unless dedicated to and accepted in writing by the Town for maintenance, all Improvements shall be maintained by Developer. Acceptance by the Town of ownership of any Improvement does not constitute acceptance by the Town of maintenance for such Improvement. If Developer wishes to transfer maintenance

obligations to the District or any other entity, including an owners' association, Developer shall obtain prior written approval from the Town.

b. *Vacant Lots/Tracts.* Developer shall be responsible for maintenance, including without limitation weed control and debris removal, on all vacant lots/tracts until such time as such lots/tracts are developed or conveyed to another owner.

6. Improvement Guarantee.

a. *Amount and Form.* To secure the construction and installation of the Improvements, Developer shall provide a letter of credit or cash in an amount equal to 115% of the total costs listed in **Exhibit B** (the "Improvement Guarantee"), a form approved by the Town.

b. *Timing.* Developer shall not commence construction, including without limitation staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, until the Town has received and approved the Improvement Guarantee.

c. *Draw.* If the Improvements are not satisfactorily completed within the periods of time specified herein, the Town may draw on the Improvement Guarantee to complete the Improvements. If the Improvement Guarantee is to expire within 14 days and Developer has not yet provided a satisfactory replacement, or completed the Improvements, the Town may draw on the Improvement Guarantee and either hold such funds as security for performance of this Agreement or spend such funds to finish the Improvements or correct problems with the Improvements as the Town deems appropriate. If the Town has drawn on the Improvement Guarantee, and a satisfactory replacement guarantee is provided or the Improvements have been completed, then the Town will release any funds received as a result of its draw within a reasonable period of time, or within 10 days of a request by Developer.

d. *Reduction.* Upon Initial Acceptance of Improvements, the Improvement Guarantee shall be reduced to the amount of 25% of the total actual cost of construction and installation of such Improvements. The reduced Improvement Guarantee shall be held by the Town during the Warranty Period.

7. Reimbursements.

a. *To the Town.* The required reimbursements for the North Water Reclamation Facility Interceptor and the Coal Creek Interceptor shall be calculated at the time of Site Plan application, and shall be due and payable at building permit.

b. *To Developer.*

i. Developer may request reimbursement for the oversize portion of utilities and other infrastructure and a *pro rata* portion of the cost of off-site Improvements, from other properties that benefit from such Improvements.

However, nothing contained in this Agreement shall create an obligation on the part of the Town to pay or reimburse any costs to Developer in the event such costs are not recovered by the Town, from the properties that use such Improvements.

ii. Subject to Section 14.j. hereof, the Town shall reimburse 135,462.25 to Developer, as the successor to Oakwood Homes LLC, for the traffic signal costs paid to the Town under the Erie Highlands Filing 16 Development Agreement. The reimbursement shall be made by the Town to Developer within 30 days of the Town's receipt of a written consent from Oakwood Homes LLC for such reimbursement.

8. Fees and Dedications. The Town agrees that any fees, reimbursements or payments to the St. Vrain Valley School District ("School District") attributable to the development of Erie Highlands and required to be paid to the School District pursuant to the annexation agreement between the School District and the Town of Erie, dated August 24, 2005, which was recorded on December 1, 2005 at Reception No. 3343854 of the records of the Clerk and Recorder of Weld County, Colorado, shall remain an obligation of Clayton Properties, Inc. ("Clayton"), and shall be included as an obligation of Clayton in the Erie Highlands Filing 18 Development Agreement. Any lack of payment by Clayton has no impact to Developer or Developer's ability to move forward with any entitlements, permits and/or construction.

9. Building Permits. Prior to the issuance of any building permits for the Development, all of the following Improvements shall be installed and shall have received preliminary approval from the Town, which requires a finding by the Town Engineer that such Improvements are safe to be used during construction: streets; street signage; water; wastewater; drainage facilities; and streetlights. Streetlights may be temporary at the time of issuance of building permits, but must be permanent prior to issuance of any certificates of occupancy.

10. Indemnification. Developer agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representatives, agents, employees, attorneys heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by the omission, error, professional error, mistake, negligence, or other fault of Developer, or any officer, employee, representative, agent or subcontractor of Developer. In addition, Developer shall pay all property taxes on property underlying Improvements to be dedicated to the Town before acceptance by the Town, and shall indemnify and hold harmless the Town for any such property tax liability.

11. Developer's Representations and Warranties. Developer hereby represents and warrants to the Town that all of the following are true and correct as of the date of signature and the Effective Date: this Agreement has been duly authorized and executed by Developer as the legal, valid and binding obligation of Developer, and is enforceable as to Developer in accordance with its terms; the person executing this Agreement on behalf of Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of Developer; to the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Developer which, if decided or determined adversely, would have a material adverse effect on the ability of Developer to undertake its obligations under this Agreement nor, to the best of Developer's knowledge, is there any fact or condition of the Property known to Developer that may have a material adverse effect on Developer's ability to Develop the Property as contemplated; and neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Developer is a party or by which Developer is bound or affected.

12. Vested Rights. The Final Plat constitutes a site specific development plan as defined in C.R.S. § 24-68-101, *et seq.*, and Chapter 3 of Title 9 of the Erie Municipal Code, and shall create vested property rights for 3 years from the date of approval of the Final Plat, provided that all required procedures are followed. The Final Plat shall include the language required by C.R.S. § 24-68-102(4)(a). Developer shall be responsible for publication of the notice required by C.R.S. § 24-68-103(c).

13. Breach.

a. *Remedies.* If Developer breaches this Agreement, the Town may take such action as permitted or authorized by law, this Agreement or the ordinances of the Town, as the Town deems necessary to protect the public health, safety and welfare. The Town's remedies include without limitation:

- i. The refusal to issue any building permit or certificate of occupancy;
- ii. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;
- iii. A draw on the Improvement Guarantee; and
- iv. Any other remedy available at law or in equity.

b. *Notice.* Unless necessary to protect the immediate health, safety and welfare of the Town, or to protect the interest of the Town with regard to the Improvement Guarantee, the Town shall provide Developer 30 days' written notice of its intent to take any action under this Section, during which Developer may cure the breach.

c. *Nature of Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

14. Miscellaneous.

a. *Assignment.* This Agreement shall not be assigned by Developer in whole or in part without the prior written authorization of the Town.

b. *Governing Law and Venue.* The laws of the State of Colorado shall govern this Agreement, and the exclusive venue for any legal proceeding arising out of this Agreement shall be in Weld County, Colorado.

c. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

d. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

e. *Governmental Immunity.* Nothing herein shall be construed as a waiver of any protections or immunities the Town or its employees, officials or attorneys may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

f. *No Joint Venture.* Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

g. *Notice.* Notices under this Agreement shall be sufficiently given if sent by regular U.S. mail, postage prepaid, to the address on the first page of this Agreement.

h. *Integration.* This Agreement, together with all exhibits attached hereto, constitute the entire understanding and agreement of the Parties, integrates all the terms and conditions mentioned herein or incidental thereto, and supersedes all negotiations or previous arrangements between the Parties with respect to any and all of the subject matter hereof.

i. *Recordation.* This Agreement shall be recorded in the real estate records of the Weld County Clerk and Recorder, and shall be a covenant running with the Property.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

k. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Exhibits List

Exhibit A – Legal Description

Exhibit B – Improvements

Exhibit A
Legal Description

Tract H-1, Erie Highlands Filing No. 14, Amendment No. 1, County of Weld, State of Colorado

Exhibit B Improvements

Engineers Opinion of Probable Cost for Erie Highlands Filing 17 - Commercial

	Quantity	Units	Unit Cost	Total
Public Improvements				
Street Costs @ WCR 5				
H.B.P. 9" Full Depth, Minor Arterial - SBRT Lane along WCR 5	450	SY	\$26.00	\$11,700.00
Subgrade Prep.	450	SY	\$2.75	\$1,237.50
Curb, Gutter along WCR 5	395	LF	\$12.00	\$4,740.00
Relocation of Street Lights	1	EA	\$1,250.00	1250.00
Install New Arterial Street Light	1	EA	\$12,500.00	12500.00
Sanitary				
8" Sanitary	630	LF	\$23.00	14490.00
4' Manholes	6	EA	\$2,500.00	15000.00
Water				
8" Water line	1,100	LF	\$25.00	\$27,500.00
8" Valves	23	EA	\$1,300.00	\$29,900.00
Tees/Cross	7	EA	\$1,000.00	\$7,000.00
Bends	9	EA	\$350.00	\$3,150.00
Fire Hydrant Assembly	4	EA	\$3,600.00	\$14,400.00
Street / Traffic Signal Costs @ Glacier Dr. & Erie Parkway				
Polishing	1	LS	\$12,800.00	\$12,800.00
Traffic Signal Controller & Cabinet	1	EA	\$47,500.00	\$47,500.00
Ethernet Switch	1	EA	\$2,450.00	\$2,450.00
Ethernet Radio (Pair)	1	EA	\$6,250.00	\$6,250.00
Drilled Caisson 36"	15	LF	\$465.00	\$6,975.00
Drilled Caisson 42"	17	LF	\$580.00	\$9,860.00
Drilled Caisson 18"	16	LF	\$275.00	\$4,400.00
Pull Box	5	EA	\$1,550.00	\$7,750.00
Conduit 2" *	600	LF	\$25.00	\$15,000.00
Conduit 3" *	600	LF	\$27.00	\$16,200.00
Wiring	1	LS	\$21,500.00	\$21,500.00
Traffic Signal Pole with 45' Mast Arm & 15' Luminaire (LED)	1	EA	\$41,500.00	\$41,500.00
Traffic Signal Pole with 40' Mast Arm & 15' Luminaire (LED)	1	EA	\$23,500.00	\$23,500.00
Mast Arm 50'	1	EA	\$11,500.00	\$11,500.00
Pedestrian Pedestal Pole	5	EA	\$3,250.00	\$16,250.00
Signal Head 12-12-12 FYA (LED)	2	EA	\$2,000.00	\$4,000.00
Signal Head 12-12-12 (LED)	12	EA	\$1,500.00	\$18,000.00
Signal Head 16" Pedestrian (LED)	4	EA	\$965.00	\$3,860.00
Signal Head 12-12-12 Bike (LED)	2	EA	\$2,650.00	\$5,300.00
APC Pushbutton Assemblies with Signs	6	EA	\$2,500.00	\$15,000.00
Intersection Detection System (Camera)	3	EA	\$13,500.00	\$40,500.00
Left Turn Only 30"x36" (R3-5L)	2	EA	\$475.00	\$950.00
Right Turn Only 30"x36" (R3-5R)	2	EA	\$475.00	\$950.00
Yield to Bikes Sign (Special 30" x 36")	1	EA	\$650.00	\$650.00
Town Street Name Signs Illuminated	3	EA	\$3,500.00	\$10,500.00
Mobilization, Bonding & Insurance	1	LS	\$24,000.00	\$24,000.00
Erosion Control	1	LS	\$3,200.00	\$3,200.00
Traffic Control	1	LS	\$31,500.00	\$31,500.00
Existing Street Light Removal	1	LS	\$2,000.00	\$2,000.00
Curb and Gutter Remove and replace	145	LF	\$36.00	\$5,220.00
8' ADA Ramps	3	EA	\$6,500.00	\$19,500.00
Pedestrian Refuge Median	1	LS	\$30,000.00	\$30,000.00
8' Concrete Walk remove and Replace	90	LF	\$48.00	\$4,320.00
	Public Improvement Total =			\$605,752.50
Total Public Improvements =				\$605,752.50

ERIE HIGHLANDS FILING NO. 17

A REPLAT OF TRACT H-1, ERIE HIGHLANDS FILING NO. 14, AMENDMENT NO. 1
 LOCATED IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
 TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO.
 12.710 ACRES - 1 LOT - 1 TRACT
 PROJECT NO. MS-001370-2021
 SHEET 1 OF 2

CERTIFICATE OF DEDICATION AND OWNERSHIP:

THE UNDERSIGNED, BEING ALL THE OWNERS, MORTGAGEES, OR LIEN HOLDERS OF CERTAIN LANDS IN THE TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

TRACT H-1, ERIE HIGHLANDS FILING NO. 14, AMENDMENT NO. 1 AS RECORDED UNDER RECEPTION NO. 4720052 ON 05/28/2021, OF THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER'S OFFICE. LOCATED IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO.

CONTAINING AN AREA OF 12.710 ACRES, (553,632 SQUARE FEET), MORE OR LESS.

HAVE BY THESE PRESENTS LAID OUT, PLATTED AND SUBDIVIDED THE SAME INTO A LOT, 2 TRACTS, AND EASEMENTS AS SHOWN HEREON UNDER THE NAME AND SUBDIVISION OF ERIE HIGHLANDS FILING NO. 17. THE EASEMENTS SHOWN HEREON ARE DEDICATED TO THE TOWN OF ERIE, COLORADO, AND THE PUBLIC, FOR PUBLIC USES AND PURPOSES AS SHOWN HEREON.

OWNER: EVERGREEN-CRS & ERIE PARKWAY, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY

BY: EVERGREEN DEVELOPMENT COMPANY-2024, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY
 ITS: MANAGER

BY: EVERGREEN DEVCO, INC., A CALIFORNIA CORPORATION
 ITS: MANAGER

BY: _____
 ITS: _____

BY: _____ AS _____ OF

EVERGREEN DEVCO, INC., A CALIFORNIA CORPORATION, MANAGER OF EVERGREEN DEVELOPMENT COMPANY-2024, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, MANAGER OF EVERGREEN-CRS & ERIE PARKWAY, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY

WITNESS MY HAND AND OFFICIAL SEAL:

NOTARY PUBLIC _____
 MY COMMISSION EXPIRES: _____

DEED OF TRUST HOLDER

CLAYTON PROPERTIES GROUP, INC., A TENNESSEE CORPORATION
 AS BENEFICIARY UNDER THAT DEED OF TRUST RECORDED ON
 DECEMBER 20, 2024 AT RECEPTION NUMBER 5001245.

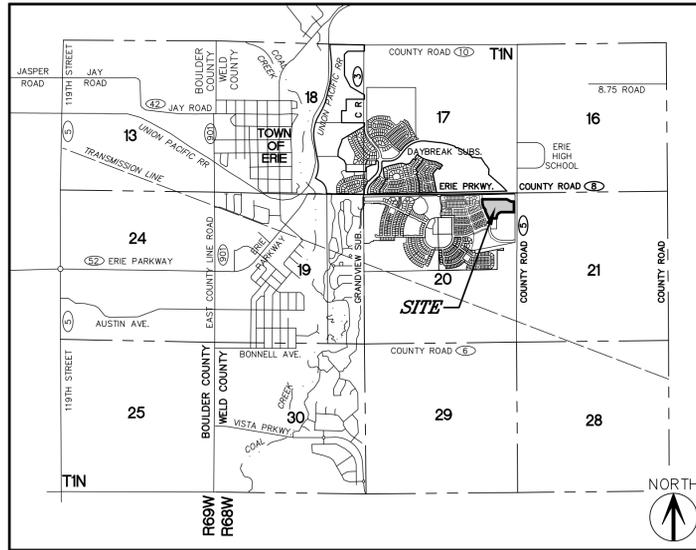
BY: _____
 NAME: _____
 TITLE: _____

STATE OF COLORADO)
) SS
 COUNTY OF _____)
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2025

BY: _____ AS _____ OF
 CLAYTON PROPERTIES GROUP, INC., A TENNESSEE CORPORATION

WITNESS MY HAND AND OFFICIAL SEAL:

NOTARY PUBLIC _____
 MY COMMISSION EXPIRES: _____



VICINITY MAP
 SCALE: 1"=3000'

SHEET INDEX

- SHEET 1 - COVER, LEGAL DESCRIPTION, NOTES, VICINITY MAP
- SHEET 2 - OVERALL BOUNDARY AND LOT DETAIL

LAND SUMMARY CHART				
TYPE	AREA (S.F.)	AREA (AC.)	% OF TOTAL AREA	USE
LOT 1, BLK 1	85,209	1.956	15.39	COMMERCIAL LOT
TRACT A	468,423	10.754	84.61	FUTURE COMMERCIAL LOT
PUBLIC ROW	NA	NA	NA	NA
TOTAL	553,632	12.710	100%	

GENERAL NOTES

- THE FIELD WORK FOR THIS PLAT WAS PERFORMED BY AN AZTEC CONSULTANTS, INC. SURVEY CREW AND COMPLETED ON FEBRUARY 22 2024.
- PER C.R.S. 38-51-106, "ALL LINEAL UNITS DEPICTED ON THIS LAND SURVEY PLAT ARE U.S. SURVEY FEET. ONE METER EQUALS 39.37/12 U.S. SURVEY FEET, EXACTLY ACCORDING TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY."
- NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- NOTICE: PER THE STATE OF COLORADO BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULE 1.6.B.2 THE WORD "CERTIFY" AS USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED. THE SURVEY REPRESENTED HEREON HAS BEEN PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF.
- THE PROPERTY DESCRIBED HEREON IS THE SAME AS THE PROPERTY DESCRIBED IN LAND TITLE GUARANTEE COMPANY COMMITMENT ORDER NO. ABZ25207759, WITH AN EFFECTIVE DATE OF DECEMBER 20, 2024 AT 9:01 A.M. AND THAT ALL EASEMENTS, COVENANTS AND RESTRICTIONS REFERENCED IN SAID TITLE COMMITMENT OR APPARENT FROM A PHYSICAL INSPECTION OF THE SITE OR OTHERWISE KNOWN TO ME HAVE BEEN PLOTTED HEREON OR OTHERWISE NOTED AS TO THEIR EFFECT ON THE SUBJECT PROPERTY.
- PLEASE REFER TO THE ENCANA SURFACE USE AGREEMENT RECORDED UNDER RECEPTION NO. 3982954 FOR SETBACK AND USE RESTRICTIONS.
- RESERVED TEMPORARY CONSTRUCTION AND PIPE LINE EASEMENTS ARE SHOWN HEREON BASED ON GRAPHICAL REPRESENTATION OF EXHIBITS B & D WITHIN THE SURFACE USE AGREEMENT RECORDED UNDER RECEPTION NO. 3952706.
- THE PROPERTY WITHIN THIS PLAT OF ERIE HIGHLANDS FILING NO. 14, AMENDMENT NO. 1 IS SUBJECT TO A PERMANENT AVIGATION EASEMENT AS DESCRIBED WITHIN THE AGREEMENT RECORDED UNDER RECEPTION NO. 3984166.
- BASIS OF BEARINGS: THE BEARINGS SHOWN HEREON ARE BASED UPON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, ASSUMED TO BEAR NORTH 88°48'06" EAST, A DISTANCE OF 2648.24 FEET; MONUMENTED AT THE NORTH QUARTER CORNER OF SECTION 20 BY A NO. 6 REBAR WITH 2-1/2" ALUMINUM CAP STAMPED "LS 28258" IN A MONUMENT BOX, AND MONUMENTED AT THE NORTHEAST CORNER OF SECTION 20 BY A NO. 6 REBAR WITH 2-1/2" ALUMINUM CAP STAMPED "PLS 23501" IN A MONUMENT BOX.
- FLOODPLAIN: BASED ON A GRAPHICAL REPRESENTATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) MAP NO. 08013C0442J (PANEL NOT PRINTED) WITH AN EFFECTIVE DATE OF DECEMBER 17, 2012 AT 5:00 P.M., THE SUBJECT PROPERTY LIES WITHIN "ZONE X", BEING DEFINED AS "NO SPECIAL FLOOD HAZARD AREAS".
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT(S) OR LAND BOUNDARY MONUMENT(S), OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO 18-4-508 CRS.
- SANITARY SEWER EASEMENTS, LABELED HEREON, SHALL BE NON-EXCLUSIVE AND BE GRANTED FOR THE INSTALLATION AND MAINTENANCE OF SANITARY SEWER LINES AND FOR THE BENEFIT OF THE APPLICABLE UTILITY PROVIDERS FOR THE INSTALLATION, MAINTENANCE AND ALL NECESSARY AND CONVENIENT APPURTENANCES THERETO, TOGETHER WITH A PERPETUAL RIGHT OF INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE AND REPLACEMENT OF SUCH LINES AND APPURTENANCES. SAID EASEMENTS AND RIGHTS ARE TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER. DRIVEWAYS, PAVEMENT, CURBS, LANDSCAPING ARE PERMITTED IN THE SANITARY SEWER EASEMENTS, LABELED HEREON.
- THIS PLAT IS SUBJECT TO THAT NON-EXCLUSIVE DRAINAGE EASEMENT AS SET FORTH AND CREATED ON THAT CERTAIN DECLARATION OF DRAINAGE EASEMENTS RECORDED DECEMBER 19, 2024 UNDER RECEPTION NO. 5001164 IN THE RECORDS OF THE COUNTY OF WELD, STATE OF COLORADO.
- THE LANDSCAPE EASEMENT (REC. NO. 4044915) ALONG WELD COUNTY ROAD 5 MAY ALSO INCLUDE PUBLIC SIDEWALK WITH PUBLIC ACCESS.

TITLE VERIFICATION CERTIFICATE:

WE, LAND TITLE GUARANTEE COMPANY, DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TITLE OF ALL LAND PLATTED HEREON AND THAT TITLE TO SUCH LAND IS IN THE DEDICATOR(S) FREE AND CLEAR OF ALL LIENS, TAXES AND ENCUMBRANCES, EXCEPT AS SET FORTH IN TITLE COMMITMENT ORDER NO. ABZ25207759.

BY: _____ AUTHORIZED REPRESENTATIVE DATE: _____ TITLE: _____

STATE OF COLORADO)
) SS
 COUNTY OF _____)
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2025
 BY _____ AS _____ OF LAND TITLE GUARANTEE COMPANY
 WITNESS MY HAND AND OFFICIAL SEAL
 NOTARY PUBLIC _____
 MY COMMISSION EXPIRES _____

PLANNING AND DEVELOPMENT APPROVAL CERTIFICATE:

THIS PLAT IS HEREBY APPROVED BY THE TOWN OF ERIE PLANNING AND DEVELOPMENT DIRECTOR ON
 THIS _____ DAY OF _____, 2025.

PLANNING AND DEVELOPMENT DIRECTOR

TOWN COUNCIL APPROVAL CERTIFICATE:

THIS PLAT IS TO BE KNOWN AS ERIE HIGHLANDS FILING NO. 17 AND IS APPROVED AND ACCEPTED BY
 RESOLUTION NO. _____, PASSED AND ADOPTED

AT A MEETING OF THE TOWN COUNCIL OF ERIE, COLORADO, HELD ON THE _____ DAY OF
 _____, A.D. 20__.

MAYOR: _____
 ATTEST: TOWN CLERK

SURVEYORS CERTIFICATE:

I, ANTHONY K. PEALL, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A FIELD SURVEY MADE ON FEBRUARY 21, 2018, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSEURE ERRORS ARE LESS THAN 1:50,000 (SECOND ORDER); AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISIONS OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE TOWN OF ERIE MUNICIPAL CODE.

I ATTEST THE ABOVE ON THIS _____ DAY OF _____, 2025.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR #38636
 ANTHONY K. PEALL
 FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
 300 E. MINERAL AVENUE, SUITE 1, LITTLETON, CO 80122



LAST REVISED
 2025-04-28

<p>300 East Mineral Ave., Suite 1 Littleton, Colorado 80122 Phone: (303) 713-1898 Fax: (303) 713-1897 www.aztecconsultants.com</p> <p>AzTec Proj. No.: 70924-01 DRAWN BY: TP</p>	REVISIONS			DATE OF PREPARATION:	2024-06-12
	DATE	DESCRIPTION	BY	SCALE:	NA
	01/13/2025	ADD EASEMENT INFORMATION	TP		
	02/25/2025	REVISED ACCESS EASEMENT WIDTH	TP	SHEET 1 OF 2	
	04/02/2025	REVISED EASEMENTS	TP		
05/22/2025	ADDED NEW NOTE TO COVER	TP			

ERIE HIGHLANDS FILING NO. 17

A REPLAT OF TRACT H-1, ERIE HIGHLANDS FILING NO. 14, AMENDMENT NO. 1
 LOCATED IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
 TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO.

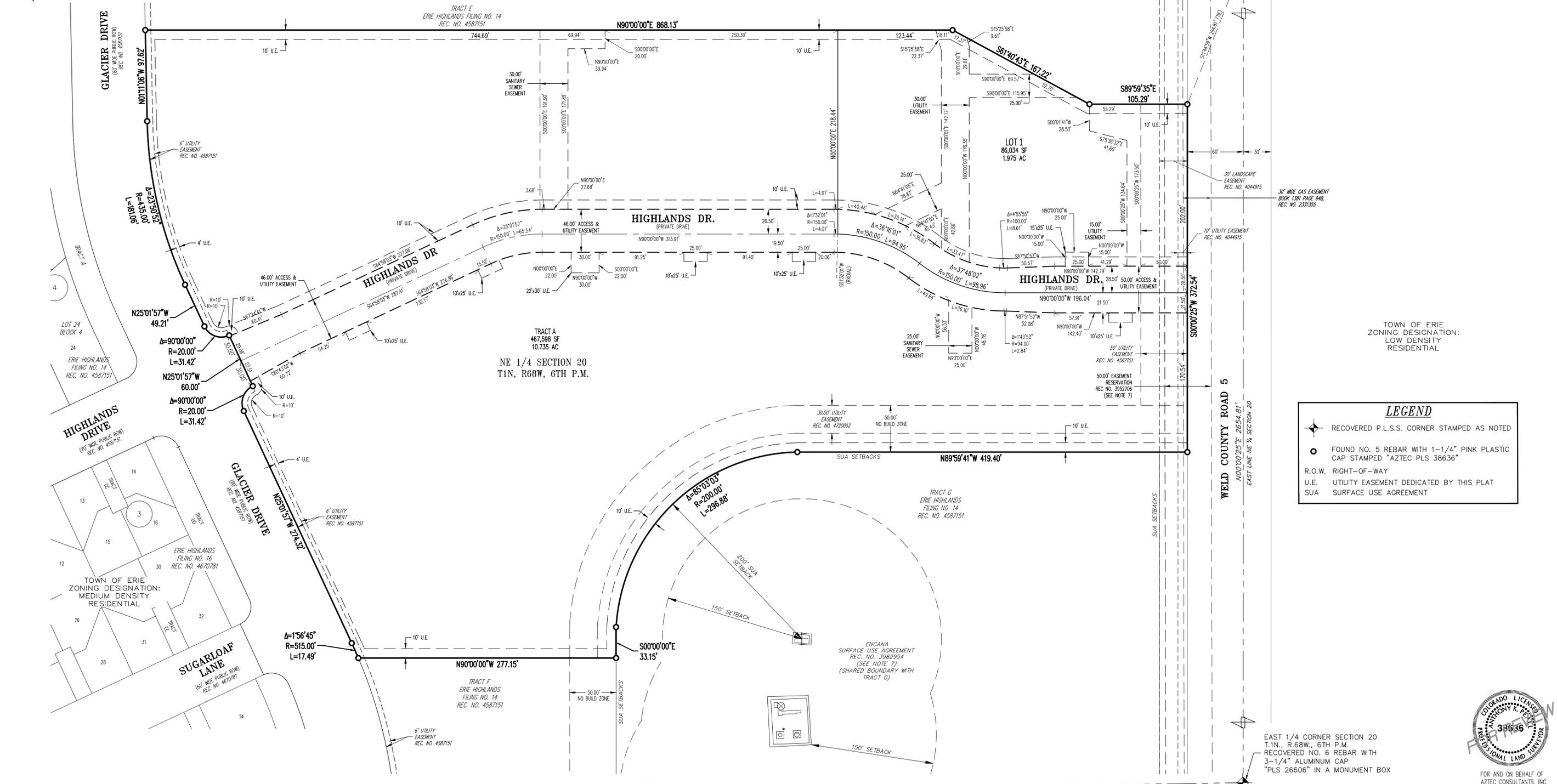
12.710 ACRES - 1 LOT - 1 TRACT
 PROJECT NO. MS-001370-2021
 SHEET 2 OF 2

NORTH 1/4 CORNER SECTION 20
 T.1N., R.68W., 6TH P.M.
 RECOVERED NO. 6 REBAR
 WITH 2-1/2" ALUMINUM CAP
 "LS 28258" IN A MONUMENT BOX

NE CORNER SECTION 20
 T.1N., R.68W., 6TH P.M.
 RECOVERED NO. 6 REBAR WITH
 2-1/2" ALUMINUM CAP "PLS
 23501" IN A MONUMENT BOX

(BASIS OF BEARINGS)
 NORTH LINE NE 1/4 SECTION 20
 N88°48'06"E 2648.24'

SOUTH LINE NE 1/4 SECTION 20
 S89°05'07"W 2637.97'



LEGEND

- RECOVERED P.L.S.S. CORNER STAMPED AS NOTED
- FOUND NO. 5 REBAR WITH 1-1/4" PINK PLASTIC CAP STAMPED "AZTEC PLS 38636"
- R.O.W. RIGHT-OF-WAY
- U.E. UTILITY EASEMENT DEDICATED BY THIS PLAT
- SUA SURFACE USE AGREEMENT

TOWN OF ERIE
 ZONING DESIGNATION:
 LOW DENSITY
 RESIDENTIAL

EAST 1/4 CORNER SECTION 20
 T.1N., R.68W., 6TH P.M.
 RECOVERED NO. 6 REBAR WITH
 3-1/4" ALUMINUM CAP
 "PLS 26606" IN A MONUMENT BOX



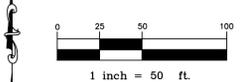
FOR AND ON BEHALF OF
 AZTEC CONSULTANTS, INC.

CENTER 1/4 CORNER
 SECTION 20 T.1N., R.68W.,
 6TH P.M. RECOVERED NO. 6
 REBAR WITH 2-1/2"
 ALUMINUM CAP "PLS 28258"

AZTEC
 CONSULTANTS, INC.

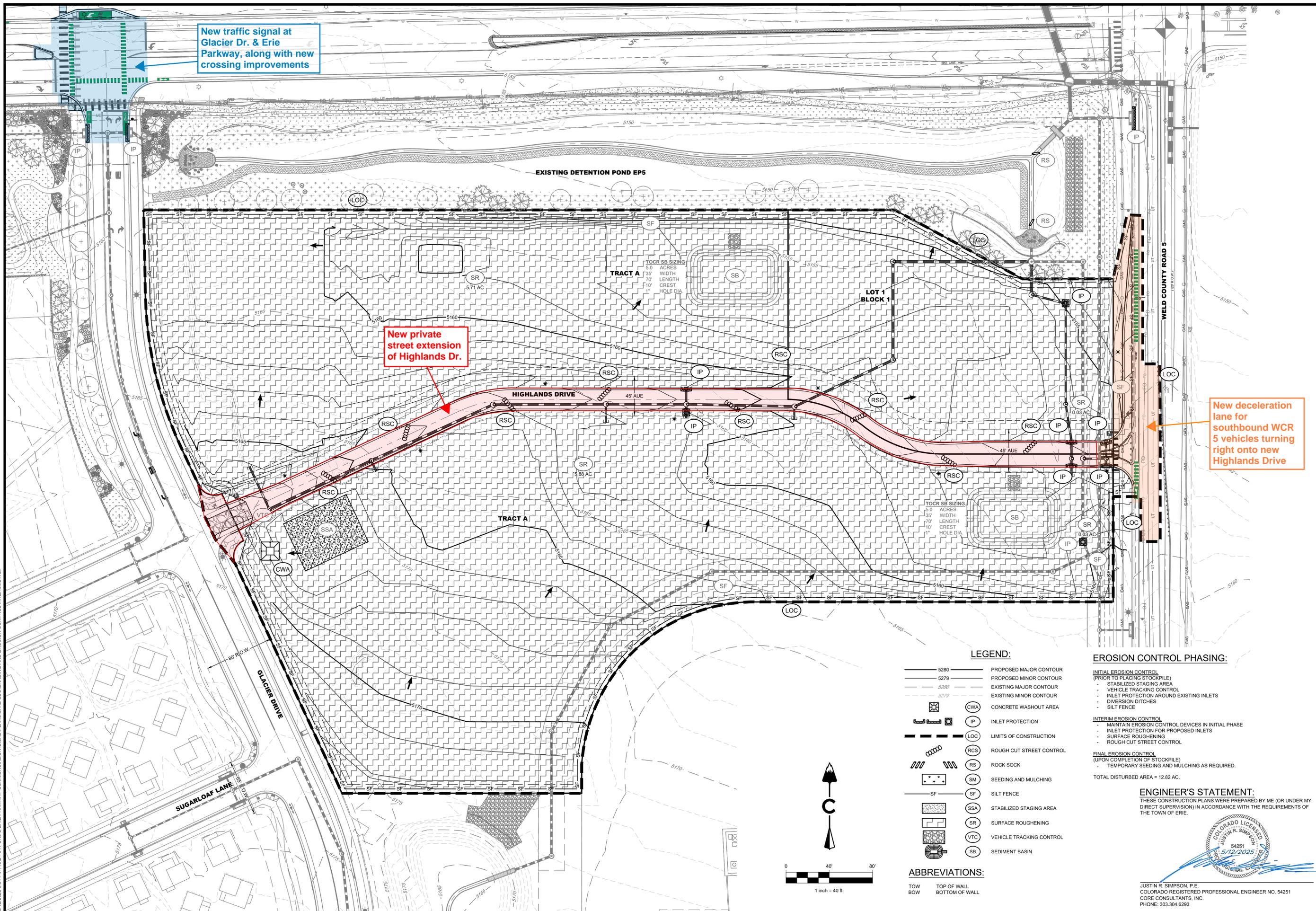
300 East Mineral Ave., Suite 1
 Littleton, Colorado 80122
 Phone: (303) 713-1898
 Fax: (303) 713-1897
 www.aztecconsultants.com

AzTec Proj. No: 70924-01 DRAWN BY: TP



DATE OF PREPARATION:	2024-06-12
SCALE:	1"=50'
SHEET 2 OF 2	

5/12/2025 3:34 PM - X:\24-041 CR6 & ERIE PARKWAY COMMERCIAL\CD\PLANS\CIVIL\CD\SGRAVING AND EROSION CONTROL-INTERIM.DWG



New traffic signal at Glacier Dr. & Erie Parkway, along with new crossing improvements

New private street extension of Highlands Dr.

New deceleration lane for southbound WCR 5 vehicles turning right onto new Highlands Drive

LEGEND:

- 5280 — PROPOSED MAJOR CONTOUR
- 5279 — PROPOSED MINOR CONTOUR
- - - 5280 - - - EXISTING MAJOR CONTOUR
- - - 5279 - - - EXISTING MINOR CONTOUR
- [Symbol] CWA CONCRETE WASHOUT AREA
- [Symbol] IP INLET PROTECTION
- [Symbol] LOC LIMITS OF CONSTRUCTION
- [Symbol] RSC ROUGH CUT STREET CONTROL
- [Symbol] RS ROCK SOCK
- [Symbol] SM SEEDING AND MULCHING
- [Symbol] SF SILT FENCE
- [Symbol] SSA STABILIZED STAGING AREA
- [Symbol] SR SURFACE ROUGHENING
- [Symbol] VTC VEHICLE TRACKING CONTROL
- [Symbol] SB SEDIMENT BASIN

ABBREVIATIONS:

- TOW TOP OF WALL
- BOW BOTTOM OF WALL

EROSION CONTROL PHASING:

- INITIAL EROSION CONTROL (PRIOR TO PLACING STOCKPILE)**
- STABILIZED STAGING AREA
 - VEHICLE TRACKING CONTROL
 - INLET PROTECTION AROUND EXISTING INLETS
 - DIVERSION DITCHES
 - SILT FENCE
- INTERIM EROSION CONTROL**
- MAINTAIN EROSION CONTROL DEVICES IN INITIAL PHASE
 - INLET PROTECTION FOR PROPOSED INLETS
 - SURFACE ROUGHENING
 - ROUGH CUT STREET CONTROL
- FINAL EROSION CONTROL (UPON COMPLETION OF STOCKPILE)**
- TEMPORARY SEEDING AND MULCHING AS REQUIRED.
- TOTAL DISTURBED AREA = 12.82 AC.

ENGINEER'S STATEMENT:
 THESE CONSTRUCTION PLANS WERE PREPARED BY ME (OR UNDER MY DIRECT SUPERVISION) IN ACCORDANCE WITH THE REQUIREMENTS OF THE TOWN OF ERIE.



JUSTIN R. SIMPSON, P.E.
 COLORADO REGISTERED PROFESSIONAL ENGINEER NO. 54251
 CORE CONSULTANTS, INC.
 PHONE: 303.504.6293

CALL 3 BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES.

CALL BEFORE YOU DIG.

CORE ASSUMES NO RESPONSIBILITY FOR EXISTING UTILITY LOCATIONS (HORIZONTAL AND VERTICAL). THE EXISTING UTILITY INFORMATION IS FOR INFORMATION ONLY. THE RESPONSIBILITY OF THE CONTRACTOR TO FIELD VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES IS THE RESPONSIBILITY OF ANY CONSTRUCTION ACTIVITIES.

DATE BY

5/12/25 JRS

REVISION DESCRIPTION

1 FINAL SUBMITTAL

DESIGNED BY: JRS

DRAWN BY: JCP

CHECKED BY: JRS

JOB NO. 24-041

SHEET 6 OF 36

ERIC HIGHLANDS COMMERCIAL

TOWN OF EIRE, COLORADO

CONSTRUCTION DOCUMENTS - FILING 17

GRAVING AND EROSION CONTROL-INTERIM

CORE CONSULTANTS, INC.

3473 S. BROADWAY

ENGLEWOOD, CO 80113

303.703.4444

LIVEYOURCORE.COM

LAND DEVELOPMENT

ENERGY

PUBLIC INFRASTRUCTURE



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-169, **Version:** 1

SUBJECT: Consent Agenda

A Resolution of the Town Council of the Town of Erie Approving a Consent to Assignment of a Development Agreement from Clayton Properties Group to TH Erie Highlands, LLC

DEPARTMENT: Planning and Development

PRESENTER: Harry Brennan, Senior Planner

POLICY ISSUES:

N/A.

STAFF RECOMMENDATION:

Approve the Consent to Assignment of the Development Agreement.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Town Council approved the Erie Highlands Filing 18 Final Plat and Development Agreement on Feb. 25, 2025.

The Development Agreement (DA) includes standard Town of Erie requirements to develop the site as well as exhibits outlining phasing and cost estimates for the public improvements the developer will install. These improvements include streets, sidewalks, right-of-way landscaping and irrigation, utilities, and private improvements with public importance. The Development Agreement reflects provisions negotiated by Town staff with the Town Attorney's counsel and the original property owner, Clayton Properties Group.

Clayton Properties Group desires to partner with Trumark Homes (TH Erie Highlands, LLC) to develop the project in accordance with the approved Final Plat, Development Agreement, and Site Plan. By assigning the Development Agreement to Trumark Homes, Trumark accepts all responsibilities and obligations in the Agreement, including construction of public and private improvements, payments of fees, and all conditions of the Agreement.

Site History and Prior Approvals

The Town Council approved the Final Plat and Development Agreement for this project on Feb. 25, 2025.

Action Items

The Town Council is the approval body to allow Assignment of the DA.

COUNCIL PRIORITY(S) ADRESSED:

- ✓ Prosperous Economy
- ✓ Fiscally Responsible
- ✓ Attractive Community Amenities
- ✓ Engaged and Diverse Community
- ✓ Well-Maintained Transportation Infrastructure
- ✓ Safe and Healthy Community

ATTACHMENTS:

1. Resolution 25-052
2. Consent to Assignment
3. Assignment and Assumption Agreement
4. Development Agreement

**Town of Erie
Resolution No. 25-052**

**A Resolution of the Town Council of the Town of Erie Approving a
Consent to Assignment of a Development Agreement from Clayton
Properties Group to TH Erie Highlands, LLC**

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to consent to the assignment of the Development Agreement from Clayton Properties Group to TH Erie Highlands, LLC.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Town Council hereby approves the Consent to Assignment of Development Agreement from Clayton Properties Group to TH Erie Highlands, LLC in the form attached hereto, and the Mayor is authorized to execute the Consent on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Consent to Assignment
(Erie Highlands Filing 18 Development Agreement)

This Consent to Assignment (the "Consent") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and TH Erie Highlands, LLC, a Colorado limited liability company with an address of 8350 East Crescent Parkway, Suite 450, Greenwood Village, CO 80111 ("Assignee") (each a "Party" and collectively, the "Parties").

Whereas, on February 25, 2025, the Town and Clayton Properties Group, Inc, a Tennessee corporation ("Developer") entered into the Erie Highlands Filing 18 Development Agreement, which was recorded with the Weld County Clerk and Recorder at Reception No. ⁵⁰¹⁴⁴⁵²____ (the "Development Agreement");

Whereas, the Development Agreement contains certain improvement obligations, covenants, promises, and requirements to be fulfilled by Developer;

Whereas, Developer desires to assign all of its improvement obligations, covenants, promises, and requirements under the Development Agreement to Assignee, and, in accordance with the requirements of the Development Agreement has requested the Town's consent to such assignment; and

Whereas, Assignee has agreed to be responsible for and assume all of the improvement obligations, covenants, promises, and requirements under and pursuant to the Development Agreement, and agrees to be bound by the terms of the Development Agreement.

Now, therefore, in consideration of the mutual promises, covenants and obligations of the Parties contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Assignment and Assumption Agreement. A copy of the fully executed Assignment and Assumption Assignment between Developer and Assignee is attached hereto as **Exhibit A**, and incorporated herein by this reference.
2. Consent to Assignment. In reliance on the terms of the Assignment and Assumption Agreement, the Town hereby consents to the assignment of all of Developer's improvement obligations, covenants, promises and requirements under and pursuant to the Development Agreement to Assignee, subject to the following condition: no Improvement Guarantee as required by the Development Agreement shall be released either in whole or in part by the Town until the Town receives from Assignee a replacement Improvement Guarantee of equal or greater value, in a form and an amount acceptable to the Town.

Exhibit A
Executed Assignment and Assumption Agreement

Assignment and Assumption of Development Agreement
(Erie Highlands Filing 18)

This Assignment and Assumption of Development Agreement (the "Assignment") is made and entered into this 25th day of February, 2025 (the "Effective Date"), by and between Clayton Properties Group, Inc., a Tennessee corporation with an address of 4908 Tower Road, Denver, CO 80249 ("Developer"), and TH Erie Highlands, LLC, a Colorado limited liability company with an address of 8350 East Crescent Parkway, Suite 450, Greenwood Village, CO 80111 ("Assignee") (each a "Party" and collectively the "Parties").

Whereas, on February 25, 2025, Developer and the Town of Erie (the "Town") entered into the Erie Highlands Filing 18 Development Agreement, which was recorded with the Weld County Clerk and Recorder at Reception No. 5014452 (the "Development Agreement");

Whereas, Developer wishes to assign, and Assignee wishes to accept, the Development Agreement and all rights and obligations thereunder.

Now, therefore, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Assignment and Assumption. Developer hereby expressly transfers, conveys and assigns to Assignee all of Developer's rights and obligations under the Development Agreement, and Assignee hereby accepts from Developer and assumes all of Developer's rights and obligations under the Development Agreement. As additional consideration, Assignee hereby indemnifies and holds Developer harmless from and against any and all claims, liens, damages, demands, causes of action, liabilities, lawsuits, judgments, losses, costs and expenses (including without limitation attorney fees and costs) actually asserted against or incurred by Developer in connection with Assignee's failure to satisfy its assumed obligations under the Development Agreement.

2. Miscellaneous.

a. *Assignment.* This Assignment shall not be assigned by Assignee in whole or in part without the prior written authorization of the Town.

b. *Governing Law and Venue.* The laws of the State of Colorado shall govern this Agreement, and the exclusive venue for any legal proceeding arising out of this Assignment shall be in Weld County, Colorado.

c. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Assignment.

Exhibit A
Legal Description

Tracts X and QQ, Erie Highlands Filing No. 16 as recorded under Reception No. 4670781 of the records of the Weld County Clerk and Recorder, located in the Northeast Quarter of Section 20, Township 1 North, Range 68 West of the 6th Principal Meridian, Town of Erie, County of Weld, State of Colorado, containing an area of 10.699 acres (466,072 square feet), more or less.

Assignment and Assumption of Development Agreement
(Erie Highlands Filing 18)

This Assignment and Assumption of Development Agreement (the "Assignment") is made and entered into this 25th day of February, 2025 (the "Effective Date"), by and between Clayton Properties Group, Inc., a Tennessee corporation with an address of 4908 Tower Road, Denver, CO 80249 ("Developer"), and TH Erie Highlands, LLC, a Colorado limited liability company with an address of 8350 East Crescent Parkway, Suite 450, Greenwood Village, CO 80111 ("Assignee") (each a "Party" and collectively the "Parties").

Whereas, on February 25, 2025, Developer and the Town of Erie (the "Town") entered into the Erie Highlands Filing 18 Development Agreement, which was recorded with the Weld County Clerk and Recorder at Reception No. 5014452 (the "Development Agreement");

Whereas, Developer wishes to assign, and Assignee wishes to accept, the Development Agreement and all rights and obligations thereunder.

Now, therefore, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Assignment and Assumption. Developer hereby expressly transfers, conveys and assigns to Assignee all of Developer's rights and obligations under the Development Agreement, and Assignee hereby accepts from Developer and assumes all of Developer's rights and obligations under the Development Agreement. As additional consideration, Assignee hereby indemnifies and holds Developer harmless from and against any and all claims, liens, damages, demands, causes of action, liabilities, lawsuits, judgments, losses, costs and expenses (including without limitation attorney fees and costs) actually asserted against or incurred by Developer in connection with Assignee's failure to satisfy its assumed obligations under the Development Agreement.

2. Miscellaneous.

a. *Assignment.* This Assignment shall not be assigned by Assignee in whole or in part without the prior written authorization of the Town.

b. *Governing Law and Venue.* The laws of the State of Colorado shall govern this Agreement, and the exclusive venue for any legal proceeding arising out of this Assignment shall be in Weld County, Colorado.

c. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Assignment.

Exhibit A
Legal Description

Tracts X and QQ, Erie Highlands Filing No. 16 as recorded under Reception No. 4670781 of the records of the Weld County Clerk and Recorder, located in the Northeast Quarter of Section 20, Township 1 North, Range 68 West of the 6th Principal Meridian, Town of Erie, County of Weld, State of Colorado, containing an area of 10.699 acres (466,072 square feet), more or less.

Development Agreement
(Erie Highlands Filing No. 18)

This Development Agreement (the "Agreement") is made and entered into this ^{25th} day of February, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and Clayton Properties Group Inc. d/b/a Oakwood Homes, as the successor to Oakwood Homes LLC, a Colorado corporation with an address of 4908 Tower Road, Denver, CO 80249 ("Developer") (each a "Party" and collectively the "Parties").

Whereas, Developer is the owner of the real property more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property"); and

Whereas, Developer wishes to develop the Property (the "Development"), and has filed an application for approval of Erie Highlands Filing No. 18 Final Plat (the "Final Plat"); and

Whereas, the Town and Developer mutually acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town in connection with its approval of the Development, and that such matters are necessary to protect, promote and enhance the public health, safety and welfare of the Town.

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions and fees to be paid by Developer in connection with the improvements for the Development. All conditions in this Agreement are in addition to any requirements of the Erie Municipal Code (the "Code"), state law and other Town ordinances, and are not intended to supersede any requirements contained therein.

2. District. The Town acknowledges that Developer has formed one or more metropolitan districts (collectively the "District") for the purpose of providing facilities and services for the Development, either independently or as Developer's designee under this Agreement. Notwithstanding anything contained in this Agreement to the contrary, any obligation of Developer under this Agreement may be performed by or on behalf of the District, provided that the District will be bound by this Agreement for any obligations that it undertakes on behalf of Developer.

3. Construction of Improvements.

a. *General*. Developer shall, at its own expense, design, construct and install all public improvements necessary for the Development, including without limitation

streets, alleys, curbs, gutters, sidewalks, landscaping, irrigation, fencing, street lights, water, waste water, storm sewer and drainage facilities, and trails and park improvements (collectively the "Improvements"). A list of the required Improvements is set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. Omission of any necessary Improvement from **Exhibit B** does not relieve Developer from responsibility for furnishing, installing or constructing such Improvement.

b. *Construction Standards.* Developer shall construct the Improvements in accordance with plans approved by the Town (the "Plans"), as well as the Town's Standards and Specifications for Design and Construction of Public Improvements (the "Standards"). Developer shall furnish, at its expense, all necessary engineering and consulting services relating to the design and construction of the Improvements. These services shall be performed by or under the supervision of a professional engineer licensed by the State of Colorado.

c. *Public Improvement Permit.* Before the construction of any Improvements, Developer shall obtain a Public Improvement Permit ("PIP") from the Town as provided in the Code. If the application is complete and complies with the approved plans and the Standards, the Town will issue the PIP. Developer shall reimburse the Town for any expenses incurred by the Town for consultant review of the application or associated documents. Unless otherwise approved by Town, overlot grading shall not be initiated until the Town approves drainage improvement plans by the issuance of the PIP.

d. *Testing and Inspection.* Developer shall employ, at its own expense, a licensed testing company to perform all testing of materials or construction reasonably required by the Town. Developer shall furnish copies of test results to the Town on a timely basis. At all times during construction, the Town shall have access to inspect materials and work, and all materials and work not conforming to the Plans or Standards shall be repaired or removed and replaced at Developer's expense.

e. *Rights-of-way and Easements.* Prior to construction of any Improvements that require additional rights-of-way or easements, Developer shall acquire at its own expense all such rights-of-way and easements. Any easements or rights-of-way conveyed to the Town shall be free and clear of liens, taxes and encumbrances and shall be conveyed on documents in a form acceptable to the Town.

f. *Permits.* Developer shall, at its own cost, obtain the following permits, as applicable:

- i. Any permits required by the United States Army Corps of Engineers;
- ii. Colorado Department of Public Health and Environment General Permit for Stormwater Discharges Associated with Construction Activity.
- iii. Grading, stormwater quality and right-of-way permits.

iv. Air Quality Permit.

g. *As-Built Drawings.* Upon completion of construction of the Improvements, Developer shall provide the Town with complete "as-built" drawings in the form required by the Standards.

h. *Applicable Law.* Developer shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

i. *St. Vrain Valley School District.* Developer has agreed to pay the St. Vrain Valley School District ("SVVSD") the sum of \$100,000, as full and final satisfaction of all of Developer's obligations to SVVSD that were contemplated by the annexation agreement between SVVSD and the Town dated August 24, 2005 and recorded with the Weld County Clerk and Recorder on December 1, 2005 at Reception No. 3343854 (the "Annexation Agreement"). Upon such payment, the Town acknowledges that Developer will have no obligation to reimburse SVVSD additional amounts under the Annexation Agreement.

4. Acceptance of Improvements and Warranty.

a. *Initial Acceptance.* No later than 10 days after Improvements are substantially complete, Developer shall request an inspection by the Town. If Developer does not request this inspection, the Town may conduct the inspection without Developer's approval. All Improvements shall receive Initial Acceptance on or before December 30, 2028.

i. If the Improvements are satisfactory, the Town shall grant Initial Acceptance.

ii. If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the repairs, replacements, construction or other work required to receive Initial Acceptance. Developer shall complete all needed repairs, replacements, construction or other work within 30 days of said notice. After Developer completes the repairs, replacements, construction or other work

required, Developer shall request of the Town a re-inspection of such work to determine if Initial Acceptance can be granted, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. If Developer does not complete the repairs, replacements, or other work required within 30 days, Developer shall be in breach of this Agreement. The costs of re-inspection shall be borne by Developer.

b. *Final Acceptance.* At least 30 days before 2 years has elapsed from the issuance of Initial Acceptance, or as soon thereafter as weather permits, Developer shall request an inspection by the Town. If Developer does not request this inspection, the Town may conduct the inspection without Developer's approval.

i. If the Improvements are satisfactory, the Town shall grant Final Acceptance.

ii. If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the repairs, replacements, construction or other work required to receive Final Acceptance. After Developer completes the repairs, replacements, construction or other work required, Developer shall request of the Town a re-inspection of such work to determine if Final Acceptance can be granted, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. If Developer does not complete the repairs, replacements, or other work required within 30 days, Developer shall be in breach of this Agreement.

c. *Warranty.* For all Improvements to be dedicated to the Town, Developer shall provide the Town with a 2-year warranty, commencing on the date of Initial Acceptance (the "Warranty Period"). Specifically, but not by way of limitation, Developer shall warrant that: the title is marketable and its transfer rightful; the Improvements are free from any security interest or other lien or encumbrance; and the Improvements are free of defects in materials or workmanship. During the Warranty Period, Developer shall, at its own expense, take all actions necessary to maintain the Improvements and make all necessary repairs or replacements.

5. Maintenance.

a. *Improvements.* Unless dedicated to and accepted in writing by the Town for maintenance, all Improvements shall be maintained by Developer. Acceptance by the Town of ownership of any Improvement does not constitute acceptance by the Town of maintenance for such Improvement. If Developer wishes to transfer maintenance obligations to the District or any other entity, including an owners' association, Developer shall obtain prior written approval from the Town.

b. *Vacant Lots/Tracts.* Developer shall be responsible for maintenance, including without limitation weed control and debris removal, on all vacant lots/tracts until such time as such lots/tracts are developed.

6. Improvement Guarantee.

a. *Amount and Form.* To secure the construction and installation of the Improvements, Developer shall provide a letter of credit or cash in an amount equal to 115% of the total costs listed in **Exhibit B** (the "Improvement Guarantee"), in a form approved by the Town. .

b. *Timing.* Developer shall not commence construction, including without limitation staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, until the Town has received and approved the Improvement Guarantee.

c. *Draw.* If the Improvements are not constructed or completed within the periods of time specified herein, the Town may draw on the associated Improvement Guarantee to complete the Improvements. If the Improvement Guarantee is to expire within 14 days and Developer has not yet provided a satisfactory replacement, or completed the Improvements, the Town may draw on the Improvement Guarantee and either hold such funds as security for performance of this Agreement or spend such funds to finish the Improvements or correct problems with the Improvements as the Town deems appropriate. If the Town has drawn on the Improvement Guarantee, and a satisfactory replacement guarantee is provided or the Improvements have been completed, then the Town will release any funds received as a result of its draw within a reasonable period of time, or within 10 days of a request by Developer.

d. *Reduction.* Upon Initial Acceptance of Improvements, the Improvement Guarantee shall be reduced to the amount of 25% of the total actual cost of construction and installation of such Improvements. The reduced Improvement Guarantee shall be held by the Town during the Warranty Period.

7. Reimbursement.

a. *To the Town.* Developer shall reimburse the Town for a proportional cost of improvements previously constructed by the Town that benefit the Property, in the amounts and during the times set forth in **Exhibit C**, attached hereto and incorporated herein by this reference.

b. *To Developer.* Developer may seek reimbursement for the oversize portion of utilities and other infrastructure and a *pro rata* portion of the cost of off-site Improvements required under this Agreement. At the time of final approval of a land use application for properties that use these Improvements, the Town may require, as a condition of approval, a proportional reimbursement to Developer. Nothing contained in this Agreement shall operate to create an obligation on the part of the Town to pay or

reimburse any costs to Developer in the event such costs are not recovered by the Town as contemplated herein, for any reason, from the properties or property owners that use the Improvements.

8. Fees and Dedications.

a. *Open Space and Park Land Dedication.* There are no public park or open space land dedications associated with this filing.

b. *Park Fees.* The Developer shall provide a fee in lieu payment for open space, as listed in **Exhibit C**.

c. *School Site.* Developer has already complied with the intergovernmental agreement between the Town and the St. Vrain Valley School District, dated June 8, 2011, regarding dedication of school sites.

9. Issuance of Building Permits.

a. Prior to the issuance of any building permits, all of the following Improvements shall be installed and shall have received preliminary approval from the Town, which requires a finding by the Town Engineer that such Improvements are safe to be used during construction: streets; street signage; water; wastewater; drainage facilities; and streetlights, provided that such streetlights may be temporary at the time of issuance of building permits, but must be permanent prior to issuance of any certificates of occupancy.

b. Prior to issuance of any certificate of occupancy for any dwelling unit within 100 feet of the re-plugged William H. Peltier Well, a methane gas alarm and active radon system shall be constructed for each dwelling unit. In addition, with the sale of each such dwelling unit, Developer shall provide a disclosure in the form attached hereto as **Exhibit D** and incorporated herein by this reference.

10. Indemnification. Developer hereby agrees to indemnify and hold harmless the Town, its officers, employees, agents or servants from any and all suits, actions and claims of every nature and description caused by, arising from or on account of any act or omission of Developer, or of any other person or entity for whose act or omission Developer is liable, with respect to construction of the Improvements (the "Claims"); and Developer shall pay any and all judgments rendered against the Town as the result of any suit, action or claim, together with all reasonable expenses and attorney fees incurred by the Town in defending any such suit, action or claim arising out of or related to Claims. In addition, Developer shall pay all property taxes on property underlying the Public Improvements to be dedicated to the Town before acceptance by the Town, and shall indemnify and hold harmless the Town for any such property tax liability.

11. Developer's Representations and Warranties. Developer hereby represents and warrants to the Town that all of the following are true and correct as of the date of signature and the Effective Date: this Agreement has been duly authorized and executed by Developer as the legal, valid and binding obligation of Developer, and is enforceable as to Developer in accordance with its terms; the person executing this Agreement on behalf of Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of Developer; to the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Developer which, if decided or determined adversely, would have a material adverse effect on the ability of Developer to undertake its obligations under this Agreement nor, to the best of Developer's knowledge, is there any fact or condition of the Property known to Developer that may have a material adverse effect on Developer's ability to Develop the Property as contemplated; and neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Developer is a party or by which Developer is bound or affected.

12. Vested Rights. The Final Plat constitutes a site specific development plan as defined in C.R.S. § 24-68-101, *et seq.*, and Chapter 3 of Title 9 of the Erie Municipal Code, and pursuant to the Vested Rights Development Agreement dated November 12, 2013 between the Town and Developer's predecessor in interest, the approval of the Final Plat shall create vested property rights until November 12, 2028, provided that all required procedures are followed. The Final Plat shall include the language required by C.R.S. § 24-68-102(4)(a). Developer shall be responsible for publication of the notice required by C.R.S. § 24-68-103(c).

13. Breach.

a. *Remedies.* If Developer breaches this Agreement, the Town may take such action as permitted or authorized by law, this Agreement or the ordinances of the Town, as the Town deems necessary to protect the public health, safety and welfare. The Town's remedies include without limitation:

- i. The refusal to issue any building permit or certificate of occupancy;
- ii. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;
- iii. A demand that the Improvement Guarantee be paid or honored; or
- iv. Any other remedy available at law or in equity.

b. *Notice.* Unless necessary to protect the immediate health, safety and welfare of the Town, or to protect the interest of the Town with regard to the

Improvement Guarantee, the Town shall provide Developer 30 days' written notice of its intent to take any action under this Section, during which time Developer may cure the breach.

c. *Nature of Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

14. Miscellaneous.

a. *Assignment.* This Agreement shall not be assigned by Developer in whole or in part without the prior written authorization of the Town.

b. *Governing Law and Venue.* The laws of the State of Colorado shall govern this Agreement, and the exclusive venue for any legal proceeding arising out of this Agreement shall be in Weld County, Colorado.

c. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

d. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

e. *Governmental Immunity.* Nothing herein shall be construed as a waiver of any protections or immunities the Town or its employees, officials or attorneys may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

f. *No Joint Venture.* Notwithstanding any provision hereof, the Town shall never be a joint venturer in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

g. *Notice.* Notices under this Agreement shall be sufficiently given if sent by regular U.S. mail, postage prepaid, to the address on the first page of this Agreement.

h. *Integration.* This Agreement, together with all exhibits attached hereto, constitutes the entire understanding and agreement of the Parties, integrates all the terms and conditions mentioned herein, and supersedes all negotiations or previous arrangements between the Parties with respect to the subject matter hereof.

Exhibits List

Exhibit A – Legal Description

Exhibit B – Improvements

Exhibit C – Reimbursements to the Town

Exhibit D – Well Disclosure Form

Exhibit A
Legal Description

Tracts X and QQ, Erie Highlands Filing No. 16 as recorded under Reception No. 4670781 of the records of the Weld County Clerk and Recorder, located in the Northeast Quarter of Section 20, Township 1 North, Range 68 West of the 6th Principal Meridian, Town of Erie, County of Weld, State of Colorado, containing an area of 10.699 acres (466,072 square feet), more or less.

**Exhibit B
Improvements**

**Engineers Opinion of Probable Cost to Finish
for
Erie Highlands Filing 18
(Includes curb returns of intersecting streets)**

	Quantity	Units	Unit Cost	Total
Public Improvements				
Street Costs				
H.B.P. 5.5" Full Depth, Local Streets	2,665	SY	\$20.00	\$53,300.00
Subgrade Prep.	2,665	SY	\$2.75	\$7,328.75
Curb Drain	1,600	LF	\$16.50	\$26,400.00
Curb, Gutter	1,600	LF	\$12.00	\$19,200.00
5' Detached Sidewalks	7,969	SF	\$2.50	\$19,922.50
Street Lights	3	EA	\$2,500.00	\$7,500.00
Sanitary				
Connect To Existing	2	EA	\$1,050.00	\$2,100.00
8" Sanitary	2,550	LF	\$23.00	\$58,650.00
4' Manholes	20	EA	\$2,500.00	\$50,000.00
4" Sanitary Services	116	EA	\$750.00	\$87,000.00
Water				
Connect To Existing	3	EA	\$850.00	\$2,550.00
8" Water line	2,750	LF	\$25.00	\$68,750.00
8" Valves	22	EA	\$1,300.00	\$28,600.00
Bends	10	EA	\$350.00	\$3,500.00
6" Ductile Iron Pipe for Hydrant	52	LF	\$33.75	\$1,755.00
Fire Hydrants (Tee, 6" FH Valve, Hydrant)	4	EA	\$3,600.00	\$14,400.00
Meter Vault W/ 1.5" tap	31	EA	\$3,250.00	\$100,750.00
Storm Sewer				
Connect To Existing	1	EA	\$650.00	\$650.00
18" RCP	35	LF	\$45.00	\$1,575.00
24" RCP	10	LF	\$62.00	\$620.00
4' Storm Manholes	1	EA	\$3,000.00	\$3,000.00
10' Type R Inlet	1	EA	\$4,600.00	\$4,600.00
15' Type R Inlet	1	EA	\$5,100.00	\$5,100.00
Erosion Control	1	LS	\$15,000.00	\$15,000.00
Landscape				
Deciduous Shade Trees (2.5" Cal.)	58	EA	\$300.00	\$17,400.00
Ornamental Shade Trees (2" Cal.)	36	EA	\$250.00	\$9,000.00
Evergreen Trees (6' Ht.)	30	EA	\$300.00	\$9,000.00
Shrubs	427	EA	\$20.00	\$8,540.00
Grasses	586	EA	\$8.00	\$4,688.00
Perennials	618	EA	\$18.00	\$11,124.00
Turf Grass (Sod)	33,909	SF	\$2.10	\$71,208.90
Native Grass	82,073	SF	\$0.10	\$8,207.30
Mulch (Wood/Rock)	39,081	SF	\$3.00	\$117,243.00

Steel Edger	3,401	LF	\$6.00	\$20,406.00
Soil Amendment	775	CY	\$65.00	\$50,395.48
Irrigation				
Two-Wire Surge Arrestor	17	EA	\$480.00	\$8,160.00
Two-Wire Cable	3,840	LF	\$1.35	\$5,184.00
6" Pop-up Spray Head	842	EA	\$42.00	\$35,364.00
6" Pop-up Spray Head w/ MP Rotator	81	EA	\$47.00	\$3,807.00
12" Hi-pop Spray Head w/ MP Rotator	98	EA	\$55.00	\$5,390.00
Gear Driven Rotor	40	EA	\$65.00	\$2,600.00
Quick Coupling Valve	12	EA	\$195.00	\$2,340.00
Drip Line Blow-Out Stub	75	EA	\$67.00	\$5,025.00
Poly Drip Tubing	7,480	LF	\$1.90	\$14,212.00
Drip Emitters	2,740	EA	\$2.70	\$7,398.00
Drip Valve Assembly - 1" dia.	25	EA	\$700.00	\$17,500.00
Electric Control Valve - 1" dia.	27	EA	\$660.00	\$17,820.00
Electric Control Valve - 1 1/2" dia.	13	EA	\$710.00	\$9,230.00
PVC Mainline w/ fittings - 2 1/2" dia.	2,750	LF	\$9.20	\$25,300.00
PVC Mainline w/ fittings - 2" dia.	680	LF	\$6.30	\$4,284.00
PVC Lateral - 2" dia.	70	LF	\$4.80	\$336.00
PVC Lateral - 1 1/5" dia.	640	LF	\$3.20	\$2,048.00
PVC Lateral - 1" dia.	9,560	LF	\$2.20	\$21,032.00
Sleeve 6" dia.	400	LF	\$20.00	\$8,000.00
Sleeve 4" dia.	300	70	\$15.00	\$4,500.00
Sleeve 2" dia.	1,840	LF	\$6.00	\$11,040.00
Gate Valve - 2" dia.	3	EA	\$195.00	\$585.00
Gate Valve - 2-1/2" dia.	12	EA	\$240.00	\$2,880.00
Rain Bird ESP-LXD controller - 125 sta.	1	EA	\$3,300.00	\$3,300.00
Electrical power to controller and pump	1	EA	\$4,000.00	\$4,000.00
Rain/freeze sensor	1	EA	\$350.00	\$350.00
Booster pump	1	EA	\$22,000.00	\$22,000.00
Copper Tubing - 1-1/2" dia.	25	LF	\$45.00	\$1,125.00
1-1/2" backflow preventer with enclosure	1	EA	\$3,400.00	\$3,400.00
Drain Valve - 3/4" dia.	2	EA	\$150.00	\$300.00
Master Valve - 1-1/2" dia.	1	EA	\$800.00	\$800.00
			Public Improvement Subtotal	
			=	\$1,158,773.93
Private Improvements				
Street Costs				
H.B.P. 5.5" Full Depth, Alleys	3,963	SY	\$20.00	\$79,260.00
Subgrade Prep.	3,963	SY	\$2.75	\$10,898.25
Curb, Gutter	3,762	LF	\$12.00	\$45,144.00
Storm Sewer				
Connect To Existing	2	EA	\$650.00	\$1,300.00
12" HDPE/PVC	663	LF	\$44.00	\$29,172.00
18" RCP	170	LF	\$45.00	\$7,650.00

4' Storm Manholes	2	EA	\$3,000.00	\$6,000.00
6' Storm Manholes	1	EA	\$3,500.00	\$3,500.00
12" Nyloplast Inlet	8	EA	\$2,300.00	\$18,400.00
5' Type R Inlet	1	EA	\$4,000.00	\$4,000.00
10' Type R Inlet	1	EA	\$4,600.00	\$4,600.00
			Private Improvement	
			Subtotal =	\$209,924.25
Total Public & Private Improvements =				\$1,368,698.18

Exhibit C
Reimbursements to the Town

Improvement	Reimbursement Amount (\$)	Payment Timing
North Water Reclamation Facility Interceptor	47,560.00	Within 60 days of the Effective Date
Lower Coal Creek 30 Inch Interceptor	6,380.00	Within 60 days of the Effective Date
Open Space Fee-in-Lieu	200,848.20	Within 60 days of the Effective Date

Exhibit D
William H. Peltier Well Disclosure Form

Important Notice to Potential Buyers:

This property is located within 100 feet of a re-plugged oil and gas well. The well, identified in the records of the Colorado Energy and Caborn Management Commission (the "ECMC") as the William H. Peltier Well (ECMC Facility ID No. 240343), was re-plugged on October 14, 2024 in accordance with applicable ECMC regulations, as documented in ECMC document number 403955326.

The buyer is advised to independently investigate the current status, condition, and any potential risks associated with the re-plugged well. The seller makes no representations or warranties regarding the well, its impact on the property, or any associated hazards. By proceeding with the purchase of this property, the buyer acknowledges that they assume full responsibility for investigating any potential concerns related to the well.

The buyer is encouraged to contact the ECMC for further information on the well's status and any potential impacts. The ECMC can provide detailed records and guidance regarding oil and gas operations in the area.

By accepting the terms of this purchase, the buyer releases the seller from any and all liability related to the presence of the re-plugged well, including but not limited to any environmental, structural, or health concerns that may arise. The buyer acknowledges that it has been provided with sufficient opportunity to conduct due diligence and investigation prior to completing this transaction.



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-298, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Authorizing Town Staff to Apply for the Regional Transportation District's Partnership Grant

DEPARTMENT: Public Works

PRESENTER(S): Miguel Aguilar, Principal Transportation Planner

FISCAL SUMMARY:

Cost as Recommended:	\$180,000
Balance Available:	\$0
Budget Line Item Number:	Account to be established at time of award. We are pursuing \$720,000 grant for \$900,000 total funding.
New Appropriation Required:	Yes, if grant is awarded

POLICY ISSUES:

The Council's approval must be given for staff to apply for this grant opportunity. The adopted Transportation Mobility Plan (TMP) recommends providing transportation options including transit. The grant and associated project align with the Multimodal Options, Connectivity, Equity, and Innovation values of the TMP.

STAFF RECOMMENDATION:

The Council authorizes staff to apply for the partnership grant.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Town of Erie will be operating a townwide transit service, Erie Flex Ride, that is currently funded by grants with a Town match. The service will be a turn-key transit service for anyone traveling within Town. This service will fill our existing transit gaps.

Erie Flex Ride currently has funding for the first two years of operations, and this grant would support the third year. Staff will continue pursuing grants for future years of service. RTD's partnership grant is an operational funding opportunity for this service but local agencies must apply. The cost in the Fiscal Summary is the match required for the \$720,000 grant amount requested. The match funding would be included in the 2nd supplemental budget request if the grant application is awarded.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Attractive Community Amenities
- ✓ Engaged and Diverse Community
- ✓ Prosperous Economy
- ✓ Well-Maintained Transportation Infrastructure
- ✓ Small Town Feel
- ✓ Safe and Healthy Community
- ✓ Effective Governance
- ✓ Environmentally Sustainable
- ✓ Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-084; RTD Partnership Grant-R051425
2. 2025 RTD Partnership Program
3. RTD Partnership Grant - Town of Erie Application
4. Presentation - RTD Partnership Grant for Erie Flex Ride

**Town of Erie
Resolution No. 25-084**

**A Resolution of the Town Council of the Town of Erie Authorizing
Town Staff to Apply for the Regional Transportation District's
Partnership Grant**

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to authorize Town staff to apply for the Regional Transportation District's Partnership Grant.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Town Council hereby authorizes Town staff to apply for the Regional Transportation District's Partnership Grant.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk



2025 Call for Projects - Partnership Program

Partnership Program Purpose

RTD established the Partnership Program in 2023 to leverage RTD and local funding to provide additional services that meet a community’s local mobility needs. The program provides clarity to external stakeholders on how to approach RTD for partnerships by establishing a standardized intake process. Additionally, the program establishes a means to evaluate partnerships after they are implemented, ensuring funding is being spent effectively through performance specifications.

2025 Call for Projects Details

Overview

This document serves as RTD’s 2025 Call for Projects for the Partnership Program. This Call for Projects allows local governments and Transportation Management Associations/Organizations (TMAs/TMOs) to apply for RTD partnership funding. Other non-profits and non-governmental organizations who are interested in 2025 Partnership Program funding should partner with an eligible organization. Applicants will need to fill out the application form to apply for funds, and each Subregional Service Council will prioritize projects submitted from their subregion. Note that RTD has been purposefully vague about project eligibility, as the intent of the program is to allow for innovative ideas and to not disqualify any potential projects from funding. The only ineligible project type is infrastructure investment. If your project proposes planning or construction of any physical infrastructure, it will be deemed ineligible. Additionally, projects that seek the provision or expansion of RTD services identified in the System Optimization Plan (SOP) are not eligible for funding. In general, no more than 30% of 2025 funding can be allocated to any one Subregional Service Council. However, percentages may be adjusted depending on the number of Subregional Service Councils that submit viable projects.

Important Dates

April 16	2025 Call for Projects and associated application materials released
April 21, 11 a.m.	Virtual Q&A session (link to meeting here) for interested applicants
May 14, 5 p.m.	Applications due to RTD
June 2-13	Subregional Service Councils prioritize submitted projects and select a representative to participate on the Project Selection Committee
June 18	RTD staff score all submitted projects
July 11	Project Selection Committee meets to develop final funding recommendation
August 1	RTD announces selected projects
August – December 2025	RTD and project sponsors execute IGAs and project sponsor issues RFP (if necessary)
2026	New projects launch



Eligible Applicants

- Local governments within the RTD boundary
- TMAs/TMOs within the RTD boundary

Eligible Projects

All projects must be solely within the RTD boundary. Any project occurring outside of the RTD boundary is ineligible. Eligible project types include:

- Fixed-route transit service – service operating on a specific route
- On-demand transit service – demand-responsive service operating in a specific area
- Other mobility service – service that does not fall into the above two categories
- Other – project that does not provide service, but enhances mobility through other means

Note that planning or construction of infrastructure and fare-buy ups are ineligible for RTD partnership funding. Fare buy-up requests will be processed separately later in 2025.

Vehicle Purchases

Projects can either be bid as turnkey to a competitively-selected contractor or the project sponsor will need to own the vehicle outright and provide the vehicle to the selected contractor for operation and maintenance. Any project sponsor asking for funding to purchase vehicles will need to adhere to federal regulations in order to obtain funding. Contractors will not be allowed to own vehicles utilizing Partnership Program funding.

Funding

There is \$3 million annually available for the 2025 Call for Projects, and RTD will commit up to three years of funding, with a start date of 2026. Applicants can request funding for one year, two years, or three years, depending on project needs. The table below shows the amount of funding available by year for projects submitted in this Call. Note that additional funding may be made available in future years, subject to RTD’s budgeting process. Future funding will be allocated through a future Call for Projects. Applicants cannot request more than \$900,000 annually in RTD funding.

Year	Available Funding	Maximum Project Request
2026	\$3 million	\$900,000
2027	\$3 million	\$900,000
2028	\$3 million	\$900,000

Local Match

All applicants will be expected to provide a minimum of 20% local match. The local match must be cash; in-kind match and/or reimbursement for staff time is not eligible.

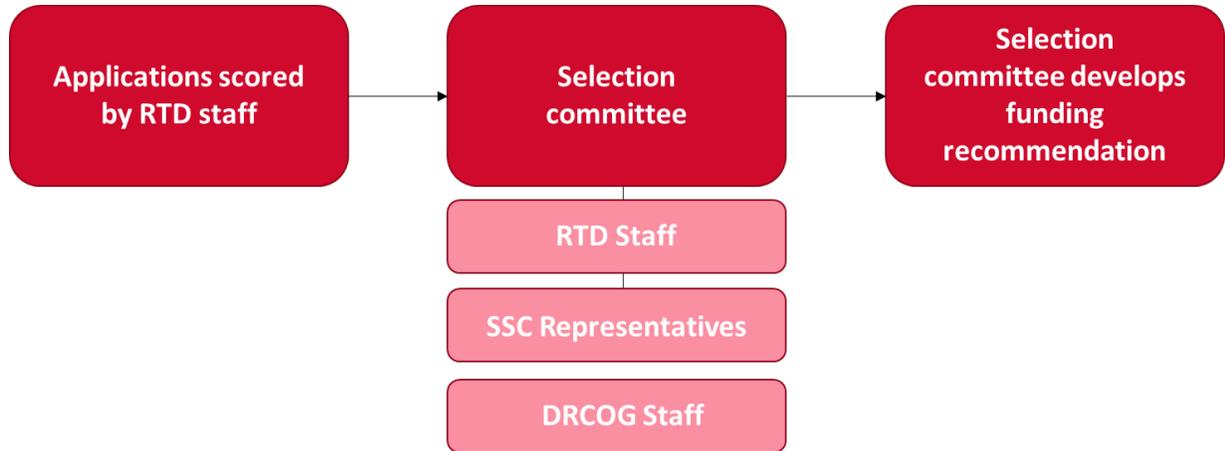
Instructions

Applicants should complete the attached application form and submit the form and associated materials to RTD via the [RTD application portal](#) by 5p.m. MDT on May 14, 2025. RTD will host a virtual Q&A session at 11 a.m. on April 21, 2025 for those who have questions on the application and/or the process. A link to the Microsoft Teams meeting can be found [here](#). Please reach out to Cory Schmitt (cory.schmitt@rtd-denver.com) if you need additional technical assistance.

2025 Project Selection

In 2025, the process to select projects and develop funding recommendations will be a two-step process.

First, a group of RTD staff will score all submitted applications based on the scoring rubric on page 5. After scoring the projects, a selection committee will be convened. The selection committee will be made up of RTD staff as well as one representative from each Subregional Service Council and member of DRCOG. The selection committee will take into account project scores as well as prioritization from the Subregional Service Councils to develop a final funding recommendation.





2025 Project Selection Criteria

The following is the detailed project selection criteria:

Alignment with RTD's Strategic Plan

The Partnership Program seeks to enhance two Strategic Plan priorities – Community Value and Customer Excellence.

Community Value: *RTD strives to be a strong and valued community partner.*

Selected projects will demonstrate increased value to their community and will highlight partnership between the selected project sponsor and RTD.

Customer Excellence: *RTD strives to consistently deliver high-quality customer service.*

Selected projects will bring additional value to customers, while meeting their mobility needs.

Local support and ability to meet local needs

In June after all applications are received, each Subregional Service Council will meet to prioritize projects if more than one project is submitted from that subregion. Through this process, Subregional Service Councils have the opportunity to highlight projects that will best meet the mobility needs of their subregion. Applicants should plan to give a brief overview of their project to the Subregional Service Council at the June meeting utilizing the provided slide template. The prioritization from each Subregional Service Council will be used by the Selection Committee to determine a final funding recommendation.

Complements existing RTD services

RTD provides robust regional connections, but many areas of the District lack first and last mile connections. Projects scoring highly in this category will improve access to RTD's existing services.

Provides service where there is a gap in existing service

RTD has a large District, and some areas of the 2,342-square mile District do not currently have service, or lack service necessary to meet residents' or employees' needs. Projects scoring highly in this category will provide service to areas that lack service needed to meet the mobility needs of individuals in the area.

Provides service to equity populations

Equity is a core principle of RTD's functional mission to provide public transit service in the Denver Region. Projects scoring highly in this category will improve mobility for low-income and minority populations.

Potential ridership

RTD staff will use information from each application to evaluate the potential ridership a service might generate. RTD staff will take a data-driven approach to evaluate potential ridership; the greater density of people and jobs, the larger potential there is for ridership.

Project readiness

RTD intends to fund "shovel-ready" projects. Applicants who demonstrate a high degree of project readiness will have conducted the necessary planning to understand the work required to deliver the project on time. Additionally, applicants who have managed similar past projects, or projects of similar complexity, will score highly. Applicants who demonstrate that local match is committed to the project will score higher than those with local match that is contingent upon other factors (e.g. winning another grant, receiving budget approvals). Applicants should have adequate staffing to support project implementation.



2025 Project Scoring Rubric

Selection Criteria	Weight	High (3 points)	Medium (2 points)	Low (1 point)
Alignment with RTD's Strategic Plan	10%	The project demonstrates strong alignment with the two Strategic Plan priorities that the Partnership Program seeks to enhance – Community Value and Customer Excellence	The project demonstrates moderate alignment with the two Strategic Plan priorities that the Partnership Program seeks to enhance – Community Value and Customer Excellence	The project demonstrates weak alignment with the two Strategic Plan priorities that the Partnership Program seeks to enhance – Community Value and Customer Excellence
Local support and ability to meet local needs	20%	The project was prioritized first by the applicant's Subregional Service Council	The project was prioritized second by the applicant's Subregional Service Council	The project was prioritized third or lower by the applicant's Subregional Service Council
Complements existing RTD services	10%	The project provides a first-last mile connection to frequent (15 minutes or less) RTD service	The project provides a first-last mile connection to semi-frequent (16-59 minutes) RTD service	The project provides a first-last mile connection to infrequent (60 minutes or more) RTD service
Provides service where there is a gap in existing service	10%	The project implements a service that provides mobility in an area that has no RTD service	The project implements a service that provides mobility in an area that has some RTD service	The project implements a service that provides mobility in an area that has ample RTD service
Provides service to equity populations (from DRCOG data tool)	15%	Relative to other submitted projects, the project will provide service to a larger number of individuals of color and low-income households	Relative to other submitted projects, the project will provide service to a medium number of individuals of color and low-income households	Relative to other submitted projects, the project will provide service to a lower number of individuals of color and low-income households
Potential ridership	15%	Relative to other submitted projects, the density of population and jobs in the service area is higher	Relative to other submitted projects, the density of population and jobs in the service area is medium	Relative to other submitted projects, the density of population and jobs in the service area is lower
Project readiness	20%	Applicant demonstrates a strong ability to deliver project on time as well as manage ongoing operations of the project. Applicant has managed similar past projects or conducted enough planning to fully understand work required to implement. Applicant has staffing necessary to support project implementation	Applicant demonstrates a medium ability to deliver project on time as well as manage ongoing operations of the project. While applicant may not have managed similar past projects, applicant has conducted enough planning to fully understand work required to implement. Applicant has staffing necessary to support project implementation	Applicant demonstrates a low ability to deliver project on time as well as manage ongoing operations of the project. Applicant has not managed similar past projects, however, applicant has conducted some planning to understand work required to implement. Applicant does not have staffing necessary to support project implementation



Information for Successful Applicants

Applicants and RTD will need to execute intergovernmental agreements (IGAs) or funding agreements with each applicant prior to procurement and project launch. The IGAs will detail project requirements, outline the amount of funding that is being provided, and clarify commitments from RTD and the applicant. Additionally, RTD will help the applicant finalize any details of their project needed to advance the project to procurement.

Selected projects will be required to meet performance metrics that align with the "Community" category in RTD's service standards. For the 2025 Call for Projects, selected projects will be expected to have at least two boardings per hour for demand response services and 10 boardings per hour for fixed route services. Projects that do not fall into these two categories will be assessed on a case-by-case basis.

Selected applicants will be required to go through a competitive procurement process to select a mobility provider for any new service under the oversight of RTD's Contracting and Procurement division. Applicants that do not have an existing procurement policy and/or standards in place will receive more oversight from RTD's Contracting and Procurement division than applicants that do. RTD will provide guidance on items to include in the contract. At a minimum, a selected operator will need to meet federal drug and alcohol screening requirements, conduct criminal background checks for operators, meet applicable Title VI regulations, provide ADA accessible vehicles, and meet RTD's hiring and training requirements for operators. If an applicant chooses to include federal funding as part of the project, additional items above and beyond the aforementioned requirements will be needed.

At the end of each year, existing partnerships will be assessed based on performance metrics; projects will be expected to meet the minimum service standards for the "Community" service category, as determined by Service Development performance metrics. These metrics (identified above) will be included in the IGA executed with the applicant. RTD will conduct this assessment and make recommendations on how to improve performance for services that are not meeting metrics. While performance assessments will occur annually for every project, projects will not be expected to meet metrics after the first year of operation; however, applicants will be expected to work with RTD staff on ways to address underperforming service. Additionally, RTD will not withdraw previously committed funding due to poor performance. Services that do not meet performance metrics are at risk of losing RTD funding after the initial funding commitment has been exhausted. Additionally, continuation of a project after the initial funding period is not guaranteed and will be contingent on available funding and project performance.



Partnership Program Application

A) Applicant Information

Project Sponsor Name	Town of Erie
Project Sponsor Type	<input checked="" type="radio"/> Local Government <input type="radio"/> TMA/TMO
Additional Partners	
Subregional Service Council	<input checked="" type="radio"/> Boulder County <input type="radio"/> Northeast <input type="radio"/> Northwest <input type="radio"/> Southeast <input type="radio"/> Southwest
Contact Person	Miguel Aguilar
Email	maguilar@erieco.gov
Phone Number	720-698-2293

B) Project Information

Project Title	Erie Flex Ride Service (Erie Bee)
<p>Briefly describe the project location. <i>Please include a map and GIS layer (as a .zip file) as an attachment with your submission. If you need assistance creating a GIS shapefile for your service area, please reach out to Cory Schmitt (cory.schmitt@rtd-denver.com) no later than April 30.</i></p>	
<p>The proposed project location encompasses the entirety of the Town of Erie, Colorado. The flex ride transit service, named Erie Bee, will operate within the Town and extend to key destinations including the Historic Downtown, Erie Community Center, and Erie High School. The service area will also include commercial businesses on US 287 in Lafayette (near Walmart and Kohl's) and the Children's Hospital in Broomfield on CO 7.</p>	
Project Type (select one)	
<input type="radio"/> Fixed-route transit service – service operating on a specific route <input type="radio"/> On-demand transit service – demand-responsive service operating in a specific area <input checked="" type="radio"/> Other mobility service – service that does not fall into the above two categories <input type="radio"/> Other – project that does not provide service, but enhances mobility through other means	



Project Description (a few paragraphs describing your project in more detail)
<p>The Town of Erie (the Town) faces a pressing challenge in providing sufficient transit service, both geographically and operationally. This gap in mobility leaves many residents, employees, and visitors without reliable first/last mile connections, limiting access to essential destinations and reducing community mobility. To address this need, the Town is implementing a flexible transit service to enhance connectivity and provide reliable access to key locations. The new flex ride transit service, named Erie Bee, will connect significant destinations such as the Historic Downtown, Erie Community Center, and Erie High School. The service will extend to commercial businesses on US 287 in Lafayette (near Walmart and Kohl's) and the Children's Hospital in Broomfield on CO 7.</p> <p>The Town will seek a qualified third-party vendor to operate the flex ride transit service, ensuring it is reliable, accessible, and efficiently managed. The selected vendor will provide licensed drivers, multiple ADA-compliant vehicles (initially two), a dispatcher, a call center, scheduling software, and a comprehensive operations plan for the next five years. The vendor will also maintain accurate ridership and trip data to assess future needs and support continuous improvement.</p> <p>While the Town has secured funding for the first two years of flex ride operations, additional support is needed to sustain the service into the third year. This grant application seeks funding for 2027 to ensure continuity and maintain reliable transit access for the community. Without this funding, the continuation of this essential service is uncertain, potentially leaving residents, employees, and visitors without critical transit options.</p>

For funding requests for mobility services, please answer the following four questions:
1. What are the proposed days and hours of operation?
The service operations will be Monday-Friday, 6 am to 8 pm.
2. Have you had any conversations with service providers? <i>Note that the service provider will need to be selected competitively.</i>
Yes, the Town of Erie has initiated conversations with potential service providers and will select the vendor through a competitive procurement process.
3. Will you charge the customer for the service?
No, the Erie flex ride service will be free to customers.
4. What is the area of the proposed service area (in square miles)?



20 sq miles
Please provide a project implementation timeline, either below or attached to your application, including launch date and important milestones. <i>Assume a minimum of four months to complete agreements and procure a service provider (if applicable). RTD will announce awardees in August.</i>
October 2025: Begin Service Operations - Year 1 October 2026: Continued Service Operations – Year 2 June 2027: Contract with RTD for Partnership Grant. August 2027: Performance review of vendor for continued service. October 2027: Renew the vendor's contract based on a successful performance review.
RTD hopes to fund projects that are “shovel-ready.” Please describe other funding sources, amounts, your experience in managing these types of projects, and note potential risks to project implementation. If your project includes funding from outside sources, include a letter of support or documentation of the funding source.
Erie’s flex ride service (Erie Bee) has secured initial funding for the first two years through the Denver Regional Council of Governments (DRCOG) Transportation Improvement Program (TIP) grants. The Town has committed its required local match funding for the DRCOG grant to support the service's successful implementation and operation for 2025 and 2026. The Town of Erie has significant experience managing grant-funded projects, including transportation and mobility initiatives. This includes coordinating transportation improvement grants from DRCOG’s TIP and various CDOT grants, supporting roadway improvements, studies, and the Erie Flex Ride. The Transportation Division has extensive experience coordinating transit projects, managing procurement processes, and ensuring compliance with grant requirements. The Division developed a Service Development Plan outlining the flex ride service area and operating hours. Transportation staff collaborate with the Town’s Grants team for pre- and post-award activities, ensuring adherence to state and federal requirements.
Does your organization have a procurement policy and/or standards? If yes, please provide additional information, such as a link to the procurement policy, attach the policy to your submission, or describe your organization’s procurement policy. RTD will provide procurement support for organizations that do not have a procurement policy and/or standards in place.

Yes, the Town of Erie’s Purchasing Policy is attached.

C) Project Data

Using [DRCOG’s Data Tool](#), please provide the following information about populations served. For fixed-route proposals, include populations within a ¼ mile buffer. For on-demand proposals, include populations within the service area boundaries.

Total population	39,620
Total households	10,332
People of color	8,478
People with low-income	2,799
People with limited English proficiency	1,117
People 60 and over	6,859
Youth Under 18	10,995
People with a disability	2,556
Households without a vehicle	187
Housing cost-burdened households	3,231

D) Project Budget

Calendar Year	RTD Funding	Local Funding	Total
2026			
2027	\$720,000	\$180,000	\$900,000
2028			
Total Project Cost			\$900,000



<p>Describe sources of funding, including any contingencies (necessary budget approvals, etc). <i>Local match must be a cash match; in-kind is not eligible as match. If approved, projects will be reimbursed up to 80% of project costs by RTD. Reimbursements will be made either monthly or quarterly.</i></p>
<p>Funding for Service:</p> <p>2025: DRCOG TIP & Town of Erie (the Town) match 2026: DRCOG TIP & Town match 2027: RTD Partnership Grant & Town match</p>
<p>Operating cost assumptions (e.g. cost per hour)</p>
<p>Operating costs per hour will range from \$75 to \$150, depending on the selected vendor.</p>
<p>Is your project/funding request scalable? <i>If so, please indicate the least amount of funding you could accept, and how the project scope would be reduced. If not, please explain justification for non-scalable projects.</i></p>
<p>Yes, the project funding request is scalable.</p> <ul style="list-style-type: none">• Full Request: \$720,000 - This amount would support up to three vehicles and allow for expanded service hours and days.• Reduced Request: \$650,000 - This reduced amount would still support up to three vehicles but would not include expanded service.
<p>Are you proposing to purchase vehicles and how will you procure?</p>
<p>No.</p>
<p>Proposed vehicle cost assumptions, if applicable:</p>
<p>N/A</p>
<p>Where will vehicles be serviced and maintained? <i>Note that RTD is unable to service and maintain other organization's vehicles.</i></p>

N/A
Please attach a line-item project budget. <i>Note that funding for the construction of infrastructure is ineligible.</i>

E) Demonstration of Benefits and Needs

Why is this project needed?
<p>The Town of Erie (the Town) is a fast-growing community with limited transit service. Currently, RTD operates only one fixed route service on the west side of Erie, providing direct connections to Boulder. This limited service leaves many residents without access to reliable public transportation, and community feedback has consistently highlighted the need for improved transit options within the Town.</p> <p>As Erie continues to grow, the need for consistent transit coverage across the community has become more apparent. Previously, some residents living in Weld County were located outside RTD’s service area, creating a checkerboard pattern with portions of the Town both inside and outside the service area. To address this, residents in the Weld County portion of Erie voted to annex the entire Town into RTD’s service area, ensuring consistent transit access.</p> <p>As a growing suburban community with a diverse and aging population, Erie needs transit solutions that accommodate residents who are unable to drive, are uncomfortable driving, or do not own a vehicle. This service will connect people to key destinations such as medical facilities, employment centers, schools, shopping areas, and recreational activities, filling a critical gap that existing transit services cannot address. The project will enhance connectivity, support community mobility, and ensure all residents can access essential services and opportunities by providing reliable and flexible transit options.</p>
Who benefits from the project?

The Erie Flex Ride Service will be available to everyone in Erie at no cost, benefiting the Town's youth, aging populations, transportation-burdened households, and households with only one vehicle. In addition to Erie residents, the service will also benefit employees, visitors, and anyone traveling through the area who needs access to transit connections. By improving connectivity to RTD services, the project will also support increased ridership for RTD.

Does the project serve equity populations? Please describe.

The Erie Flex Ride Service (Erie Bee) will benefit diverse economic and demographic groups throughout Erie, providing accessible and reliable transportation for all community members. This service will enhance quality of life by connecting residents to medical services, educational facilities, employment, shopping, and recreational activities. By making reliable transit readily available near homes, schools, jobs, and recreation areas, the service will positively impact all population groups in Erie.

This service will benefit all residents of Erie. It will provide transportation choices that connect community members to medical services, schools, jobs, shopping, and recreational facilities. Reliable and accessible transit will improve quality of life and mobility across the community.

- **Low-Income Households, Households Without a Motor Vehicle, and Housing Cost-Burdened Households:** Low-income households represent 7% of Erie's population, housing cost-burdened households make up 8%, and households without a motor vehicle account for 1%. These residents often face challenges accessing reliable transportation and may rely on costly ridesharing services or personal vehicles for local trips. By offering a free and reliable transit option, the flex ride service will reduce transportation costs and help these households allocate more of their income to other essential needs.
- **Individuals with Limited English Proficiency:** This group represents 3% of the project area population. The selected vendor will ensure that the call center and mobile app provide language support to assist residents in their preferred language. Erie's Transportation Management Organizations (TMOs) will also conduct outreach to educate non-English-speaking residents on using the transit service, scheduling trips, and connecting with other transit options.
- **Older Adults and Youth:** Adults aged 65 and over account for 17% of the population, while children aged 5-17 make up 28%. Erie has a higher percentage of children than most communities in the region. The service will increase mobility for both age groups, including those who may not drive, choose not to drive, or lack vehicle access, by offering transportation without requiring a caregiver, parent, or companion.

- **Individuals with Disabilities:** This group makes up 6% of the project area population. The flex ride service will include ADA-accessible vehicles equipped with lifts and operated by drivers trained to assist passengers with disabilities, ensuring the service is inclusive and supportive of residents with mobility challenges.

Does the project fill a gap in existing transit service? Please describe.

The Town of Erie currently has a population of just over 40,000, but only 5,000 residents live within a ¼ mile of a transit route, most of whom reside on the Boulder County side of town. The remaining residents do not have access to transit or RTD services.

This transit service will provide on-demand connections throughout the town, offering a more direct and flexible option than fixed-route services and addressing the existing transit gap.

How does the project align with [RTD's Strategic Plan](#)? Specifically, how will it impact two of RTD's strategic priorities - Community Value and Customer Excellence?

Strategic Priority 1: Community Value

This project aligns with RTD's strategic priority of Community Value by expanding transit services into underserved areas. The Town of Erie, located on the northern border of the RTD service area, has limited access to transit, with only one bus route serving a small portion of the community. Most residents, particularly those outside the Boulder County side, lack reliable connections to the larger metro area and transit network. By funding this project, RTD will enhance mobility for Erie residents and support the growing need for transit in the northern region.

Many Erie residents have expressed the need for more transit options, citing difficulty in reaching both local and regional destinations. The current service is insufficient, with the JUMP route offering infrequent service throughout the day and no service on Sundays, while the LD route is situated on the far west side of town, making it inaccessible for many. An on-demand transit service will bridge the first/last mile gap, providing reliable connections until RTD can expand fixed-route services in Erie.

This project also supports broader environmental and transportation goals by encouraging residents to shift from personal vehicles to transit. As a suburban community, most people who travel in Erie are car-dependent. By offering a flexible and convenient transit option, the project will reduce car trips and support emission reduction goals set by RTD, the State, and the Town.

Strategic Priority #2: Customer Excellence

An on-demand flex ride service will significantly improve customer experience by addressing Erie's current transit coverage gap. The Town's existing transit options are insufficient and infrequent, leaving residents unable to access critical destinations such as Erie High School, Historic Downtown, retail areas along CO 7, and many residential neighborhoods. By introducing an on-demand transit option, customers will benefit from reliable, personalized, and accessible transportation without the need to follow a fixed schedule.

This service will empower residents and visitors to travel where they need to go without the stress of navigating limited transit routes or depending on personal vehicles. Many community members have voiced their frustration with Erie's lack of transit options. Implementing this service will demonstrate that the Town and RTD have listened to their concerns and responded with a practical solution, showcasing excellent customer service at a relatively low cost to both the Town and RTD.

How has the project (or similar project) performed in the past? Has it been successful and/or met performance metrics? If new, n/a.

N/A

Please use the space below to provide any additional information about your project.

The Erie Flex Ride project (Erie Bee) currently has funding secured for the first two years of operations. This grant application seeks funding to continue service operations into the third year, in 2027.

The Town of Erie (the Town) has developed a Flex Ride Service Plan, which the Town Council approved in August 2024. This plan outlines the service area, days and hours of operation, and performance metrics to evaluate the service. The plan also includes provisions for increasing service based on demand and available funding.

The Town is inspired by the success of other microtransit services in the Denver Metro area, such as the Lone Tree Link, Ride Longmont, and Denver's Montbello Connector. The Town aims to offer similar flexible transit options to its residents.



Application Submission Checklist

Please submit all application material to RTD via the [application portal](#) by May 14, 2025, at 5pm MT. When submitting, please begin all file names with your organization name (e.g. RTD_application.pdf).

- Application form (required)
- Line-item project budget (required)
- Map of project location (required)
- GIS layer of project location (required, submit in a .zip file)
- Project schedule (required, either in the application on page 3 or as an attachment)
- Procurement policy (required, either in the application on page 3 or as an attachment)

Transportation Update

RTD Partnership Grant For Erie Flex Ride

Town Council

Miguel Aguilar, Principal Transportation Planner

John Firouzi, Transportation & Mobility Manager

May 27, 2025



RTD Partnership Grant For Erie Flex Ride

How We Got Here

- Council agenda included expanding transit service
- Staff developed a Service Operations Plan for flex ride
- Town Council approved Service Operations Plan in August 2024
- Erie Flex Ride funded for first two years by DRCOG TIP grants
- Staff seeking approval to apply for grant with match

Flex Ride

- Similar service to rideshare
- Curb to curb transit service
- Van sized capacity
- Reserve a trip online, phone, or app

Operations

- Monday – Friday
- 6am to 8pm
- Free for All
- Defined Service Area

RTD Partnership Grant For Erie Flex Ride

RTD Partnership Grant

- New funding source (since 2023) for supplemental transit
- \$3,000,000 available this year - up \$1 million from previous year
- Requires 20% match
- Opportunity to fund Erie flex ride for third year (or more)
- Awards announced in September

Town Application

Town Match: \$180,000

Grant: \$720,000

Totaling: \$900,000





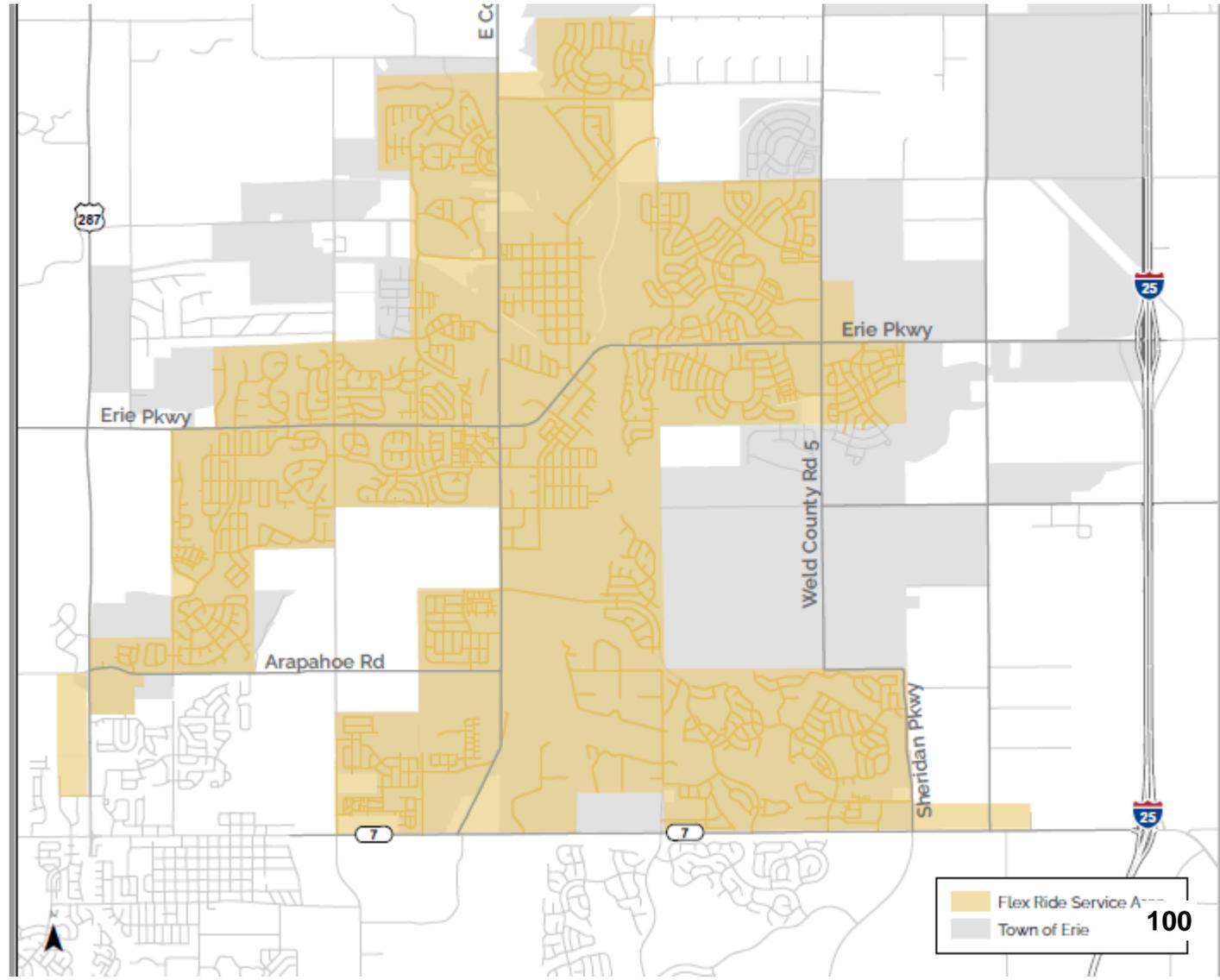
RTD Partnership Grant For Erie Flex Ride

Service Area Map

- ❑ May change based on demand
- ❑ Transit provider to provide data on service



Transit Service Boundary





TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-344, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving a Construction Contract with JOC Construction, LLC for the Kenosha Farms Culvert Repairs

DEPARTMENT: Utilities

PRESENTER(S): Todd Fessenden, Utilities Director

FISCAL SUMMARY:

Cost as Recommended: \$ 641,924.36
Balance Available: \$ 515,000.00 + \$127,000 transfer request
Fund Storm Drainage Operating Fund
Budget Line Item Number: 520-75-110-605000-257520
Budget Transfer: \$127,000 from 520-75-110-605000-100149
New Appropriation Required: No

POLICY ISSUES:

Money budgeted to complete the project. This serves the Council's goal for maintaining infrastructure. Delaying this service would result in additional deterioration and additional, even higher, future costs.

STAFF RECOMMENDATION:

Approve the resolution

SUMMARY/KEY POINTS

- Culverts need replacement before Street Maintenance Project construction this summer
- Street Maintenance Project contract approved by Council on May 27, 2025

BACKGROUND OF SUBJECT MATTER:

The 2025 capital budget includes funds for culvert replacements due to erosion, failure and/or reached its useful life cycle. When culverts tend to fail, they can cause catastrophic situations. For example, a few years ago there was a culvert that ran under Erie Parkway and the structural integrity of the pipe was compromised, causing flow to exit the pipe in ways it was not intended to, therefore causing erosion around the pipe leading to a sinkhole in one of our main arterial roads in town - which lead to costly repairs and a high impact on traffic including emergency vehicles.

Using the Gordian Job Order Contracting program, the Town received a bid from JOC Construction for 641,924.36 to replace two culverts on Allen Avenue and Nonaham Lane in Kenosha Farms.

Our goal is to complete this project before the Street Maintenance project begins, which will involve a mill and overlay of the roadway. If this culvert project gets delayed, we could potentially have negative impacts to the new roadway after the completion of the street maintenance project.

The project is over the existing budget. In order to complete this project, Staff asks Council to transfer \$127,000 to Budget Line Number 520-75-110-605000-257520 (Culvert Replacement) from (520-75-110-605000-100149) (Drainage Facility M&R).

TOWN COUNCIL PRIORITY(S) ADDRESSED:

- Attractive Community Amenities
- Engaged and Diverse Community
- Prosperous Economy
- Well-Maintained Transportation Infrastructure
- Small Town Feel
- Safe and Healthy Community
- Effective Governance
- Environmentally Sustainable
- Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-101
2. Contract
3. Budget Change Request

**Town of Erie
Resolution No. 25-101**

**A Resolution of the Town Council of the Town of Erie Approving a
Construction Contract with JOC Construction, LLC for the Kenosha
Farms Culvert Repairs**

Whereas, the Town Council finds it in the best interest of the public health, safety and welfare to approve the Construction Contract with JOC Construction, LLC for the Kenosha Farms Culvert Repairs.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Town Council hereby approves the Construction Contract with JOC Construction, LLC in substantially the form attached hereto, subject to approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Construction Contract on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Construction Contract
(Kenosha Farms Culvert Replacements (P25-650))

This Construction Contract (the "Contract") is made and entered into this _____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado home rule municipality with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516 (the "Town"), and JOC Construction, LLC, an independent contractor with a principal place of business at 200 Union Blvd, Suite 200, Lakewood, CO 80228 ("Contractor") (each a "Party" and collectively the "Parties").

For the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. Scope of Work

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Work set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. No change to the Scope of Work, including any additional compensation, shall be effective or paid unless authorized by written amendment executed by the Town.

B. Contractor shall complete the Scope of Work within 60 days of the Town's issuance of a Notice to Proceed.

II. Term and Termination

This Contract shall commence on the Effective Date, and shall terminate when all the work described in the Scope of Work is completed to the Town's satisfaction, or upon the Town's providing Contractor with 30 days advance written notice, whichever occurs first; provided that the indemnification and warranty provisions of this Contract shall survive termination.

III. Compensation

Upon final acceptance by the Town of the work set forth in the Scope of Work, the Town shall pay Contractor an amount not to exceed \$641,924.36 (the "Contract Price"), subject to the requirements of C.R.S. § 38-26-107. If Contractor completes the Scope of Work for a lesser amount than the Contract Price, Contractor shall be paid the lesser amount.

IV. Ownership

Any materials, items, and work specified in the Scope of Work, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all

work performed under the Scope of Work constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

V. Keep Jobs in Colorado Act

Pursuant to the Keep Jobs in Colorado Act, C.R.S. § 8-17-101, *et seq.* (the "Act"), and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the "Rules"), Contractor shall employ Colorado labor to perform at least 80% of the work under this Contract and shall obtain and maintain the records required by the Act and the Rules. For purposes of this Section, "Colorado labor" means a person who is a resident of the state of Colorado at the time of this Contract, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a *bona fide* qualification. A resident of the state of Colorado is a person with a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that they have resided in Colorado for the last 30 days. Contractor represents that it is familiar with the requirements of the Act and the Rules and will fully comply with same. This Section shall not apply to any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed \$500,000 in the aggregate for any fiscal year.

VI. Miscellaneous

A. *Governing Law and Venue.* This Contract shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. *Integration.* This Contract and any attached exhibits constitute the entire agreement between Contractor and the Town, superseding all prior oral or written communications.

C. *Third Parties.* There are no intended third-party beneficiaries to this Contract.

D. *Notice.* Any notice under this Contract shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address included on the first page of this Contract.

E. *Severability.* If any provision of this Contract is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

F. *Modification.* This Contract may only be modified upon written agreement of the Parties.

G. *Assignment.* Neither this Contract nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

H. *Governmental Immunity.* The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

I. *Rights and Remedies.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Contract by the Town shall not constitute a waiver of any of the other terms or obligation of this Contract. The rights and remedies of the Town under this Contract are in addition to any other rights and remedies provided by law. The expiration of this Contract shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

J. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

In Witness Whereof, the Parties have executed this Contract as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Exhibit A Scope of Work

Contractor shall remove and replace existing failed wet utility services, both culverts, roadway components, and related infrastructure. The work includes traffic control for the duration of the project, demolition, excavation, tree removal, installation of new RCP (reinforced concrete pipe), culvert removal/replacement, paving removal/installation, and sidewalk removal/installation. All work shall comply with local municipal standards, project specifications, and applicable codes.

Traffic Control

- Provide traffic control design plan for ROW permit and Towns approval.
- Set up signs per CDOT regulations.
- Provide cones and barricades for road closure.
- Provide a 3-man crew for flagging and traffic control for 3 weeks (no weekends)

Demolition

- Saw cut existing asphalt.
- Remove asphalt and expose aggregates.
- Excavate and expose the existing failed 48" RCP pipe and flared ends (x4 runs).
- Remove culvert and wing walls.
- Remove all aggregates around the existing RCP pipe.
- Saw cut and remove sidewalks and gutters in line with RCP path.
- Remove trees in work path (x4).
- Remove overgrowth around rip rap at culvert ends.

Construction

- Provide new aggregates (squeegee) around the new RCP pipe for bedding.
- Provide and install two new 48" RCP pipes side by side.
- Provide and install four new flared end sections on each side of the culvert.
- Install new compaction aggregate on top of the pipe.
- Furnish and install new trees (x4)(type TBD).
- Furnish and install new rip rap as needed.
- Furnish and install new culvert wall and wing walls.
- Furnish and install new walks and gutters in work path , dowel and epoxy to tie into existing.
- Furnish and install native seeding per town spec in disturbed areas.
- Irrigation repair as needed.

Demobilization

- Street sweeping
- Remove all signage and open road.
- Provide all closing paperwork.

Exclusions

- Replacement of smaller manhole runs (x2).
- Replacement or repairs to concrete drain pan in HOA area/s.
- Repairs to areas outside of culvert scope work area.

Closeout

- Contractor shall provide 1 Electronic Copy of the Operations and Maintenance manual for the project with retainage billing.
- Contractor shall provide a 1 year warranty from Contractor on furnished material and workmanship.

General Provisions

Part 1. Definitions

1.01 Contract Documents:

- A. Construction Contract;
- B. General Provisions
- C. Special Provisions;
- D. Town of Erie Standard Specifications for the Design and Construction of Public Improvements;
- E. Construction Task Catalog®;
- F. Technical Specifications (Gordian);
- G. Construction Drawings (if applicable);
- H. Certificate of Insurance Verification;
- I. Notice of Award;
- J. Documentation submitted by Contractor prior to Notice of Award; and

Documents Submitted with Each Job Order:

- A. Notice to Proceed;
- B. Payment and Performance Bond;
- C. Certificate of Final Payment; and
- D. Final Acceptance Form.

1.02 Contract Amendment:

A written order issued by the Town after execution of the Contract authorizing a revision to the Contract as a whole.

1.03 Town:

The Town of Erie, Colorado.

1.04 Contract:

The entire written agreement covering the performance of the Work described in the Contract Documents.

1.05 Contract Price:

The amount set forth in Section 4 of the Construction Contract.

1.06 Contract Time:

The time for completion of the Work as set forth in Section 3 of the Construction Contract.

1.07 Day:

Calendar day, unless otherwise specified. When the last day for the occurrence of an event falls on a Sunday or legal holiday as recognized by the Town, the time for performance shall be automatically extended to the next business day.

1.08 Final Completion:

The date as certified by the Project Manager when all of the Work is completed and final payment may be made.

1.09 Project Manager:

The Town's duly authorized representative in connection with the Work.

1.10 Subcontractor:

Any person, firm or corporation with a direct contract with Contractor who acts for or on behalf of Contractor in executing any part of the Contract, excluding one who merely furnishes material.

1.11 Substantial Completion:

The date as certified by the Project Manager when the Town occupies or takes possession of all or substantially all of the Work, or when the Town may occupy or take possession of all or substantially all of the Work and put it to beneficial use for its intended purposes.

1.12 Work:

All the work specified, indicated, shown or contemplated in the Contract Documents, including all alterations, amendments or extensions thereto made by supplemental agreements or written orders of the Project Manager.

Part 2. Time

2.01 Time of the Essence:

All times stated in the Contract Documents are of the essence.

2.02 Final Acceptance:

Upon Final Completion, the Project Manager will issue final acceptance.

2.03 Changes in the Work:

The Town reserves the right to order changes in the Work, in the nature of additions, deletions or modifications, without invalidating the Contract, and to make corresponding adjustments in the Job Order Price and the Job Order Completion Time. All changes shall be authorized by a written Supplemental Job Order signed by the Project Manager. The Supplemental Job Order shall include appropriate changes in the Job Order Proposal and the Job Order Completion Time. The Work shall be changed and the Job Order Price and Job Order Completion Time modified only as set forth in the written Supplemental Job Order. Any adjustment in the Job Order Price resulting in a credit or a charge to the Town shall be determined by mutual agreement of the parties before the work set forth in the Supplemental Job Order is commenced. If a Supplemental Job Order results in an increase in the Job Order Price, approval of the Erie Town Council shall be required, and if such approval is not obtained, the Town shall have no payment obligation regardless of whether the Work pursuant to the Supplemental Job Order has been performed.

2.04 Delays:

A. If Contractor is delayed in the progress of the Work by fire, unusual delay in transportation, unanticipated adverse weather conditions, or other unavoidable casualties beyond Contractor's control other than unanticipated adverse weather conditions, the Contract Time shall be extended for a reasonable period of time. "Weather" means precipitation, temperature, or wind, and an "adverse weather condition" means weather that on any calendar day varies from the average weather conditions for that day by more than 100% as measured by the National Oceanic and Atmospheric Administration. The term "unanticipated adverse weather conditions" means the number of days in excess of the anticipated adverse weather days per month as set forth below:

Monthly Anticipated Adverse Weather Days											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
7	4	4	4	6	3	4	2	3	3	2	5

By reason of example only, if in March there are two days when the snowfall exceeds the average snowfall for that day by 100%, those two days will have experienced an adverse weather condition. However, there will have been no unanticipated adverse weather condition in March, because there are four anticipated adverse weather days in March, which should be accounted for in the schedule. If, however, there are 5 days in which the snowfall exceeds the average snowfall by 100%, an unanticipated adverse weather condition will have occurred, and Contractor shall be entitled to request an extension of Job Order Completion Time.

B. Any request for extension of the Job Order Completion Time shall be made in writing to the Project Manager not more than 7 days after commencement of the delay; otherwise it shall be waived. Any such request shall contain an estimate of the probable effect of such delay on the progress of the Work and should be contained in a Supplemental Job Order.

C. Contractor shall not be entitled to any increase in the Job Order Price, or to damages, or to additional compensation as a consequence of any such delays.

2.05 No Damages for Delay:

In strict accordance with C.R.S. § 24-91-103.5, the Town shall not amend the Contract Price or any Price associated with an individual Job Order to provide for additional compensation for any delays in performance which are not the result of acts or omissions of the Town or persons acting on behalf of the Town.

Part 3. Contractor's Responsibilities

3.01 Completion/Supervision of Work:

Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and licenses in

good standing. The services performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by others in the same or similar type of work, and in compliance with applicable laws, ordinances, rules and regulations. Contractor shall be responsible for completion of all Work in a timely and workmanlike manner in accordance with the terms and specifications of the Contract Documents, including the techniques, sequences, procedures and means. Contractor shall be responsible for the coordination of all Work. Contractor shall supervise and direct the Work and give it all attention necessary for proper supervision and direction. Contractor shall maintain a supervisor on site at all times when Contractor or any subcontractor is performing Work.

3.02 Duty to Inspect:

Contractor shall inspect all Contract Documents, tests and reports, including soil tests and engineering tests, if applicable, and shall conduct a site or field review prior to executing the Contract. Contractor assumes the risk of all conditions which are disclosed, or which are reasonably suggested by any such tests or reports, or which would be disclosed by a field or site review. Contractor shall have the affirmative duty to advise the Town of any concerns which Contractor may have regarding construction conditions prior to executing the Contract.

3.03 Furnishing of Labor and Materials:

A. Contractor shall provide and pay for all labor, materials and equipment, including: tools; construction equipment and machinery; utilities, including water; transportation; and all other facilities and services necessary for the proper completion of the Work.

B. In all purchases of supplies, materials and provisions to be incorporated or otherwise used by Contractor in the Work, Contractor shall use supplies, materials and provisions produced, manufactured or grown in Colorado if such supplies, materials and provisions are not of inferior quality to those offered by competitors outside of Colorado.

C. While engaged in the performance of the Work, Contractor shall maintain employment practices that do not violate the provisions of the Colorado Antidiscrimination Act of 1957, C.R.S. § 24-34-301, *et seq.*

3.04 Employees and Safety:

A. Contractor shall maintain at all times strict discipline of its employees, and Contractor shall not employ on the Work any person unfit or without sufficient knowledge, skill, and experience to perform properly the job for which the employee was hired.

B. Contractor shall be responsible to the Town for the acts, negligence and omissions of all direct and indirect employees and subcontractors. The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the Town.

C. Contractor shall provide for and oversee all safety orders and precautions necessary for the safe performance of the Work. Contractor shall take reasonable precautions for the safety of all employees and others whom the Work might affect, all work and materials incorporated into the Work, and all property and improvements on the work site and adjacent property.

3.05 Cleanup:

A. Contractor shall keep the work site and adjoining ways free of waste material and rubbish. Contractor shall remove all waste material and rubbish daily during construction, together with all tools, equipment, machinery and surplus materials. Contractor shall, upon completion of its Work, conduct general cleanup operations on the work site, including the cleaning of all surfaces, paved streets and walks. Contractor shall also conduct such general cleanup operations on adjacent properties disturbed by the Work.

B. If Contractor fails to perform the cleanup required by this Section, after written notice, the Town may cause the cleanup to be performed at Contractor's expense. Upon receipt of a statement for such cleanup, Contractor shall pay to the Town the costs incurred by the Town for such cleanup, or the Town shall have the right to withhold said amount from any final payment due to Contractor.

3.06 Payment of Royalties and License Fees:

Contractor shall pay all royalties and license fees necessary for the Work, and to defend against all actions for infringement of copyright or patent rights, and to save and hold the Town harmless from such actions.

3.07 Taxes, Licenses and Permits:

Contractor shall pay all taxes imposed by law in connection with the Work and shall procure all permits and licenses necessary for the prosecution of the Work. Contractor shall obtain a Town tax-exempt number for exemption from the Town's sales tax.

3.08 Samples and Shop Drawings:

Contractor shall furnish, upon the request of the Project Manager, samples and shop drawings to the Project Manager, who shall review them for conformance with the Contract Documents.

3.09 Compliance with Laws and Regulations:

Contractor shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the

Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

3.10 Subcontractors:

- A. Contractor shall furnish to the Project Manager at the time each Job Order Proposal is submitted, a list of names of subcontractors to whom Contractor proposes to award the portions of the Work to be subcontracted by Contractor.
- B. Contractor shall not employ a subcontractor to whose employment the Town reasonably objects, nor shall Contractor be required to hire a subcontractor to whose employment Contractor reasonably objects.
- C. All contracts between Contractor and subcontractor shall conform to the provisions of the Contract Documents and shall incorporate the relevant provisions of the Contract Documents.

3.11 Corrective Work:

When any Work does not conform to the Contract Documents, Contractor shall make the necessary corrections so that the Work will so conform, within the time period approved by the Project Manager. The Town's review, approval or acceptance of, or payment for any work shall not be construed as a waiver of any rights under this Contract or any cause of action arising out of the performance of this Contract.

3.12 Other Contracts:

The Town reserves the right to let other contracts in connection with the Work. Contractor shall cooperate with all other contractors so that their work is not impeded by the Work, and Contractor shall give other contractors access to the work site necessary to perform their contracts.

3.13 Communication:

Contractor shall direct all communications to the Town regarding the Work to the attention of the Project Manager.

Part 4. Termination

4.01 Labor Disputes:

Notwithstanding any other provision contained in this Contract, in the event of any picket or other form of labor dispute at the construction site, Contractor shall continue to perform the Work without interruption or delay. If Contractor ceases performance of the

Work because of such picket or other form of labor dispute, the Town may terminate the services of Contractor after giving 48 hours' written notice of its intent to do so.

4.02 Default:

The Town may terminate this Contract upon 30 days' written notice to Contractor if Contractor defaults in the timely performance of any provision of the Contract Documents, or otherwise fails to perform the Work, or any part thereof, in accordance with the Contract Documents. Termination of the Contract by the Town shall not be the Town's exclusive remedy, and the Town may pursue such other remedies lawfully available to the Town including without limitation an action at law for damages against Contractor or any bonding agency issuing a bond hereunder, or an action in equity for injunctive relief.

Part 5. Warranties

5.01 Warranty of Fitness of Equipment and Materials:

Contractor represents and warrants to the Town that all equipment and materials used in the Work, and made a part of the Work, or placed permanently in the Work, shall be new unless otherwise specified in the Contract Documents. All equipment and materials used shall be of good quality, free of defects and in conformity with the Contract Documents. All equipment and materials not in conformity with the Contract Documents shall be considered defective.

5.02 General Warranty:

Contractor shall warrant and guarantee all material furnished and work performed by Contractor for a period of 2 years from the date of final acceptance of the Work by the Project Manager. Under this warranty, Contractor agrees to repair or replace, at its own expense and under the direction of the Project Manager, any portion of the Work which fails or is defective, unsound, unsatisfactory because of materials or workmanship, or which is not in conformity with the provisions of the Contract. Should Contractor fail to perform any such work within the warranty period after a request by the Town, the Town may withdraw from the Payment and Performance Bond any and all amounts necessary to complete the required work. The expiration of the warranty period shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

Part 6. Bonds, Insurance and Indemnification

6.01 Indemnification:

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representatives, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Contract or the Contract Documents, to the extent that such injury, loss or damage is attributable to the act, omission, error,

professional error, mistake, negligence or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor, or which arise out of any worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor.

B. Contractor, to the fullest extent permitted by law, shall defend, investigate, handle, respond and provide defense for and defend against any such liability, claims, damages, losses, expenses or demands at the sole expense of Contractor, or at the option of the Town, Contractor agrees to pay the Town or reimburse the Town for defense costs incurred by the Town in connection with any such liability, claims, damages, losses, expenses or demands. Contractor, to the fullest extent permitted by law, shall defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not such liability, claims or demands alleged are groundless, false or fraudulent.

C. This indemnification provision is intended to comply with C.R.S. § 13-21-111.5(6) and shall be read as broadly as permitted to satisfy that intent. Contractor's liability under this provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor. If Contractor is providing architectural, engineering, surveying or other design services under this Contract, the extent of Contractor's obligation to defend, indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement of the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

6.02 Notice of Claim:

If Contractor receives any claim arising from the performance of the Work, Contractor shall notify the Town in writing of the nature of the claim within 24 hours of receipt of the claim by Contractor. In this notice, Contractor shall provide evidence that Contractor has notified Contractor's insurer of the claim. Contractor shall keep the Town apprised of the disposition of the claim, and Contractor shall take all necessary action to resolve the claim and make restitution, if required, as quickly as possible.

6.03 Insurance:

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Contract. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.

2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Contract.

6.04 Performance and Payment Bond:

Contractor shall furnish a Payment and Performance Bond in the full amount of the Job Order Price on all Job Orders valued \$50,000 and above, as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents, including the warranty. This bond shall remain in effect at least until 2 years after the date of Final Completion.

Part 7. Payment

7.01 Progress Payments:

A. The Town shall make periodic progress payments to Contractor for all Job Orders that have a Job Order Completion Time of 45 days or less, or a Job Order Price of \$25,000 or less. A progress payment shall be made only after Contractor has submitted an application for a progress payment on a form approved by the Project Manager, and if requested by the Project Manager, Contractor shall submit copies of invoices from subcontractors or supplies and partial waivers executed by each.

B. Progress payments shall be in an amount equal to 95% of the Work actually completed. Completed Work shall include materials and equipment not incorporated in the Work but delivered to the work site and suitably stored.

C. If Contractor fails to complete any required Work within the time period agreed between Contractor and the Project Manager, or within any time period set forth in the Contract Documents, as modified or extended, the Town is expressly authorized to withhold any progress payment for such Work until such Work is completed.

D. For all other Job Orders, the Owner may make partial, monthly payments based on the percentage of the work completed.

7.02 Final Payment:

Upon final acceptance of the Work, the Town shall make final payment to Contractor pursuant to C.R.S. § 38-26-107.

7.03 Liquidated Damages:

A. Because time is of the essence and delayed performance causes a compensable, yet difficult to precisely ascertain, damage to the Town and its residents, the liquidated damages established in this Section shall be enforced. Such damages are not a penalty. For each day Final Completion is delayed after the Final Completion date stated in each Job Order Proposal, as modified through approved Supplemental Job Order(s), Contractor shall be assessed the following amounts which constitute a reasonable estimate of the actual damages such delay would cause the Town:

Value of Job Order	Amount per day
\$0-\$50,000	\$350
\$50,000-\$100,000	\$380
\$100,000-\$250,000	\$440
\$250,000-\$500,000	\$520
\$500,000-\$1,000,000	\$640
\$1,000,000-\$2,000,000	\$820
\$2,000,000-\$4,000,000	\$1,080
\$4,000,000-\$8,000,000	\$1,450
\$8,000,000-\$12,000,000	\$1,820
\$12,000,000 or greater	\$2,250

B. Allowing Contractor to continue and finish the Work or any part thereof after the Final Completion date shall not operate as a waiver on the part of the Town of any of its rights under the Contract Documents. Any liquidated damages assessed shall not relieve Contractor from liability for any damages or costs of other contractors caused by a failure of Contractor to complete the Work in the Job Order Completion Time. Liquidated damages may be deducted from any

payment due Contractor or the retainage. If the liquidated damages exceed the amount owed to Contractor, Contractor shall reimburse the Town.

7.04 Oral Agreements Prohibited:

This Contract is expressly subject to the provisions of C.R.S. § 29-1-110(1), and Contractor acknowledges that neither the Town nor any employee or agent thereof is authorized to expend or contract for the expenditure of any monies in excess of those appropriated by the Erie Town Council. The Town acknowledges that sufficient funds have been appropriated to pay the Contract Estimated Annual Value, but Contractor shall not rely upon the appropriation of any funds in addition to those already appropriated unless and until the same are lawfully appropriated by the Erie Town Council.

7.05 Items Not Included in Bid:

No additional compensation shall be paid for any costs or services listed in the Contract Documents but not specifically accounted for by Contractor in their bid Adjustment Factor(s).

7.06 Changes in Quantity:

- A. Except as provided in Section 7.08, Contractor shall not be entitled to compensation for any increased expense, loss of expected reimbursement or loss of anticipated profits, directly or indirectly caused by any changes in quantity.
- B. All other Changes in the Work shall be addressed by Section 8 of the Job Order Contract Special Conditions: Changes in the Work.

7.07 Bid Price Adjustments:

- A. When a major item is increased to more than 125% or decreased below 75% of the original quantity stated in the original Job Order, the Price Proposal shall be modified by written Supplemental Job Order. Payment for major items shall be calculated by the terms of the Supplemental Job Order.
- B. A "major spike" is defined as a spike in a specific material cost of more than 25% above what the cost of that material was on the date the Construction Task Catalog® was issued. If a major spike occurs, Contractor may submit a request for a price modification to a Unit Price or individual Job Order. To initiate such a request, Contractor shall:
 - 1. Identify the specific material that has experienced a major spike;
 - 2. Identify Pre-priced Task(s) or Job Orders that require the material experiencing a major spike; and
 - 3. Demonstrate that the spike exists by submitting at least 3 quotes on material supplier letterhead to show that the current price is a "major spike".
- C. The Town, after review of a request, may elect to adjust the Unit Price or Job Order by considering it a NPP item. The adjustment will be for the difference between the material cost at the time the Construction Task Catalog® was issued

times the quantity stated in the Job Order. The adjustment will not include any other markup, and the NPP adjustment factor will not apply.

D. The Town, at its option, may also determine that a drastic decrease in a material cost warrants the same NPP adjustment downward in the Unit Price or a Job Order.

7.08 Eliminated Items:

Should any items contained in the Job Order Price Proposal be found unnecessary for completion of the Work, the items shall be eliminated. The Job Order Price shall be modified through written Supplemental Job Order, and the amount of the Supplemental Job Order shall be the eliminated quantity multiplied by the unit price stated in the Construction Task Catalog®, minus any reasonable costs incurred by Contractor for the eliminated items. Reasonable costs shall be determined by the Project Manager based on information provided by Contractor and may include mobilization of eliminated materials and equipment mobilization costs, if the sole purpose of the equipment was to place the eliminated material. In no case shall the costs exceed the amount of the eliminated items.

7.09 Materials Stored But Not Incorporated:

Payments may be made to Contractor for materials stored on the work site but not incorporated into the Work as evidenced by invoices or cost analyses of material produced, if the material has been fabricated or processed and is ready for installation into the Work and conforms with the Contract Documents. Payments shall not exceed 85% of the price shown in the Job Order or 100% of the certified invoice cost of the stockpiled material, whichever is less. Payment for stockpiled materials shall not relieve Contractor of responsibility for loss or damage to the material. Payment for living plant materials or perishable materials shall not be made until the living or perishable material is made an integral part of the finished Work.

7.10 Cost Records:

Contractor shall make cost records available to the Town if the Town deems it necessary to determine the validity and amount of any item claimed.

Part 8. Miscellaneous

8.01 Publications:

Any and all publications relating to the Work and authored by Contractor or any of its subcontractors shall be submitted to the Town for its prior written approval of the content of the publication. If the Town disapproves of the content of the publication, the author shall withdraw it from publication. The term "publication" as used herein shall include articles or letters to be published in any newspaper, magazine, trade journal or other periodical.

8.02 Confidentiality:

Any and all reports, information, data, statistics, forms, designs, plans, procedures, systems, studies and any other communication form of knowledge given to or prepared

or assembled by Contractor under this Contract shall, to the extent permitted by law, be kept as confidential and not be made available by Contractor to any individual, company or organization without the prior written consent of the Town. Notwithstanding the foregoing, Contractor shall not be restricted from releasing information in response to a subpoena, court order, or legal process, but Contractor shall notify the Town in writing before responding.

8.03 Independent Contractor:

Contractor, for all purposes arising out of this Contract, is an independent contractor and not an employee of the Town. It is expressly understood and agreed that Contractor shall not be entitled to any benefits to which the Town's employees are entitled, such as overtime, retirement benefits, worker's compensation, injury leave or other benefits.

8.04 Conflicts:

Should any conflict arise in the Contract Documents, the order of precedence is as follows:

1. Contract Modifications (later takes precedence over earlier).
2. Construction Contract.
3. Addenda.
4. Job Orders (including Detailed Scopes of Work, Job Order Proposals and any Supplemental Job Orders).
5. Job Order Contract Special Conditions.
6. Request for Bids.
7. Special Provisions.
8. General Provisions.
9. Town Technical Specifications.
10. Standards and Specifications for Design and Construction of Public Improvements. *Most recent iteration.
11. Construction Task Catalog®.
12. Gordian Technical Specifications.
13. Supplemental Specifications.
14. Detailed Plans (Calculated dimensions will govern over scaled dimensions).

Special Provisions

1. **General.**
 - A. All labor, services, material, and other work necessary for construction shall be provided by Contractor, including without limitation: managing the budget; scheduling and coordinating work meetings; conducting field tests and geotechnical studies; preparing exhibits and participating in formal and informal public meetings at locations provided by the Town; and timely processing field orders, change orders, Supplemental Job Orders and notices of substantial completion.
 - B. Contractor shall carefully examine all Work, and shall be solely responsible for the character, quality, and quantities of Work, materials, and compliance with the Contract Documents.
 - C. Contractor shall identify any and all necessary easements for construction and maintenance of the Work.
2. **Other Regulations.**
 - A. Contractor shall ensure that the Work is in compliance with the Urban Drainage and Flood Control District Urban Storm Drainage Criteria Manual, CDOT Specifications, AASHTO Specifications, International Building Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, Americans with Disabilities Act, and other applicable codes and specifications.
 - B. In case of any discrepancy between any of the requirements set forth in the Urban Drainage and Flood Control District Urban Storm Drainage Criteria Manual, CDOT Specifications, AASHTO Specifications, International Building Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, Americans with Disabilities Act, and these Contract Documents, the more stringent requirement shall apply. If any questions arise as to which requirement is more stringent than another, the Project Manager shall be authorized to determine which is more stringent, and the Project Manager's decision shall be final.
3. **Representatives.** Contractor shall have at the work site at all times as its agent, a competent superintendent capable of reading and thoroughly understanding the Contract Documents and being thoroughly experienced in the type of work being performed. The Town shall have a representative on the job site to observe work for conformance with the Contract Documents (Job Order(s)).
4. **Work Administration.** The Town shall administer the Work, including the finalization of all Job Orders, any Supplemental Job Orders, pay estimates and payments of such, acceptance of work, and other matters as stipulated in the Contract Documents.
5. **Engineer.** The Engineer for this Work shall be the Town Engineer.

6. Inspections and Testing.

A. Contractor shall be responsible for performing materials testing. In addition to the materials testing performed by Contractor, the Town may conduct Quality Assurance testing at its own discretion.

B. Contractor shall coordinate its construction schedule with the testing agency and Town so that key inspection points may be observed. If Contractor fails to provide reasonably adequate notice or proceeds without the required inspection, the subject work shall be re-exposed or redone in its entirety, while the inspector is present. No extra compensation shall be awarded to Contractor for extra work due to Contractor's failure to coordinate inspections with the testing agency or the Town. All costs associated with Contractor's failure to coordinate inspections shall be borne by Contractor.

C. Contractor shall perform construction inspections. Contractor shall attend any pre-construction meeting(s) and be available to provide technical assistance during the course of construction as necessary. Contractor shall provide site visits and reviews upon request from the Town during the construction phase to ensure compliance with the intent of the plans and to resolve any potential conflicts. Contractor shall provide a written summary after each site visit.

D. Contractor shall be responsible for scheduling the final inspection with the Town.

7. Construction Schedule.

A. At the time of the Pre-construction Conference (Joint Scope Meeting), Contractor shall prepare and submit to the Town for review a construction schedule including: proposed daily construction hours; details of all construction items; start and finish dates; confirmation and dates for coordinating all utility relocation and/or interruptions; and the same information for all subcontractor(s). The schedule shall not be changed without prior notification and review by the Town. The schedule shall be in the form of a chart of suitable scale to indicate approximately the percentage of Work scheduled for completion at any time. Contractor shall enter on the chart the actual progress at the end of each 2-week interval as directed by the Town and shall deliver to the Town 3 copies thereof on a biweekly basis.

B. Contractor shall also prepare and submit a schedule of the anticipated manpower by title and duty. The manpower shall be adequate for orderly flow of work and completion within the time specified in the Contract Documents.

C. All construction activities shall be coordinated with the Project Manager.

8. Saturday, Sunday, Holiday and Night Work.

A. The majority of work shall be performed during Normal Working hours as described in the Bid Schedule. Normal Working hours is work performed including the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, except for Town

holidays. If Work is identified outside of those hours and days, it will be deemed as Other than Normal Working hours, which shall include the hours of 6:00 p.m. to 7:00 a.m., Monday through Friday and all day Saturday, Sunday and Town Holidays. Lane closures are restricted to 8:30 a.m. to 3:30 p.m. on arterial and collector streets, except for such work as may be necessary for proper care, maintenance, and protection of Work already completed, or in cases where the Work would be endangered or if hazards to life or property would result.

B. If Contractor and Town agree it is necessary to perform work on Saturdays, Sundays, holidays, or at night, Contractor shall make prior arrangements with the Town and receive written approval at least 48 hours before such time. Such approval may be revoked by the Town if Contractor fails to maintain adequate equipment and lighting at night for the proper control, and inspection of the work. If Work is performed without the Town's prior approval, and as a result the Town had not assigned inspectors to the work, the Town may declare Work performed during this period of time defective.

9. Progress Reports.

A. Progress reports and progress/manpower schedules shall be updated and submitted to the Project Manager at the end of each 2-week period, or at such other times as the Project Manager may request. Contractor shall also forward to the Project Manager, at the end of each month, an itemized report of the delivery status of major and critical items of purchased equipment and material, including shop drawings and the status of shop and field fabricated work.

B. If the completion of any part of the Work or the delivery of materials is behind the approved schedule, Contractor shall submit a plan acceptable to the Project Manager for bringing the Work up to schedule. The Town shall have the right to withhold progress payments for the work if Contractor fails to update and submit the progress/manpower schedule and reports as specified.

10. Pre-construction Conference. See Section 5.4 of the Job Order Contract Special Conditions for Joint Scope Meeting Conference requirements.

11. Permit Fees. All fees for permits issued by the Town shall be waived.

12. Existing Utilities.

A. The Work shall be coordinated with all impacted utility companies, districts, associations, agencies, and residents located in the work site. Contractor shall conduct the meeting and provide summary minutes.

B. Contractor shall determine the actual location of all existing utilities prior to starting any Work. Contractor shall contact utility companies for field locations prior to the start of Construction Work and shall contact all utilities at least 48 hours prior to beginning excavation and/or grading. If the exact location and depth of existing underground utilities are unknown, Contractor shall perform all necessary exploratory excavation to locate these facilities which may affect the Work prior to beginning construction. Contractor shall obtain required locates and

Contractor shall include the information on the plans. Contractor shall resolve any utility discrepancies. Contractor shall be liable for all damage done to existing utilities in the performance of the Work.

C. If Contractor requests that utility companies relocate utilities for Contractor's convenience, such relocation shall be at Contractor's expense.

D. The time of performance under the Contract shall not be extended to account for repair of utilities which are damaged by Contractor.

13. Water and Electricity. Contractor shall provide and maintain, at its own expense, an adequate supply of water and electricity required for the Work. Contractor shall install and maintain supply connections and lines satisfactory to the Project Manager, and prior to Final Completion, Contractor shall remove the supply lines at its expense.
14. Dust Control. Contractor shall use measures to prevent and control dust within the area affected by the Work. No additional compensation shall be paid to Contractor for dust control. Contractor shall clean any soil, dirt, or debris tracked onto any adjacent streets. Within 24 hours of notification by the Town that any adjacent streets require cleaning, Contractor shall clean such streets or the Town may have the streets cleaned and deduct the cost of such cleaning from the Contract Price.
15. Construction Staging Areas. All construction staging areas shall be located within the work site. The boundaries of construction staging areas shall be approved by the Town. Construction staging areas shall be used for material storage, parking for equipment, and employees' vehicles. A construction trailer shall not be required, but may be used if the location of the trailer is approved by the Town. Upon Final Completion, all staging areas shall be clean and restored to their original condition. No additional compensation shall be provided to Contractor for cleaning of construction staging areas.
16. Sanitary Facilities.
 - A. Sanitary convenience for the use of all persons employed on the work, properly screened from public observation, shall be provided in sufficient numbers and in such a manner and at such points as approved by the Town. The contents shall be removed and disposed of in a satisfactory manner.
 - B. The sanitary conveniences specified above shall be the obligation and responsibility of Contractor. The facilities shall be made available to all other contractors, subcontractors, and inspection personnel in the work site.
 - C. Contractor shall supply sufficient drinking water from approved sources to all of its employees.
 - D. Full compensation for compliance with this Section is included in the Job Order Price, and no additional compensation shall be provided.
17. Soils Investigations and Foundation Engineering. Contractor shall be responsible for all geotechnical investigations necessary to design and perform the Work.

18. Lines and Grades. Contractor shall lay out the Work and shall be responsible for all measurements in connection therewith. Contractor shall, at its own expense, furnish all stakes, templates, platforms, equipment, and labor, including surveyors, that may be required in setting and cutting or laying out any part of the Work. Contractor shall be responsible for the proper execution of the Work to such lines and grades.
19. Traffic Control.
 - A. Contractor shall furnish all necessary flag persons; erect and maintain warning lights, advance warning signs, detour signs, barricades, temporary fence, and sufficient safeguards around all excavations, embankments, obstructions; and perform any other work necessary for the protection of all work being performed, and for the safety of the public and pedestrian traffic, as well as motor vehicles. All signs and barricades shall conform to the current Manual on Uniform Traffic Control Devices.
 - B. At the Pre-construction Conference, Contractor shall submit a traffic control plan for review by the Town. The plan shall discuss the traffic control measures proposed for the safety of vehicular and pedestrian traffic through the work site.
 - C. Contractor shall at all times take proper precautions for the protection of and replacement or restoration of landscaping, driveway culverts, street intersection culverts or aprons, irrigation crossings and systems, mailboxes, driveway approaches, signs, existing utilities, and all other public and private installations that may be encountered during the Work.
 - D. No driveway or private alley shall be blocked without prior written permission from the resident who would be affected by such blocking, with a copy to the Town.
 - E. No road shall be closed at any time.
 - F. Contractor shall advise the Police Department, school districts, trash services, and homeowners of any lane closures, including dates and times.
 - G. It shall be Contractor's responsibility to: maintain, protect, and control traffic in the vicinity of and in the work site; restrict parking on streets near the work site; and provide necessary parking areas for all employees in suitable locations as approved by the Town.
20. Archaeological and Historical Discoveries.
 - A. Contractor shall inform the Town of any evidence which might suggest to a layperson that archaeological or historical materials may be present in the work site. Upon making such a discovery, Contractor shall do whatever is necessary to avoid disturbing the work site. This may require that Contractor's activities be redirected or stopped until the Town determines how to proceed.
 - B. As a result of Contractor's efforts to preserve the potential discovery at the work site, if Contractor's activities are delayed for longer than 8 normal work

hours, Contractor shall prepare accounting information to support an adjustment to the Job Order Price.

21. Water Control.

A. Contractor shall take such precautions as necessary to construct the Work in a dry condition, and Contractor shall provide for drainage, dewatering, and control of all surface and subsurface water and shall erect any necessary temporary structures or other facilities at its own expense.

B. Contractor, at its own expense, shall furnish all necessary equipment and materials required to control the surface and subsurface water in all the areas from the commencement of Work through Final Completion.

C. Contractor shall be responsible for furnishing, transporting, and installing all materials and equipment, well points, pumping, channelization, diversion, damming, or other means of controlling surface water and ground waters.

22. Disposal Site.

A. Contractor shall be responsible for the removal of all excess excavation, debris, deleterious material, muck, asphalt, concrete, trees, stumps, remains from clearing and grubbing, and all other materials not used for the construction of the improvements. Costs of disposal are included in the Job Order Price and shall not entitle Contractor to additional compensation. Contractor shall designate in writing a disposal site located outside the Town limits and acceptable to the Town.

B. Contractor's cost for loading, hauling, daily cleaning of streets, disposal of the earthwork (excavation) materials, together with the construction, maintaining and watering of haul roads, and dump fees and permits are included in the Job Order Price and shall not entitle Contractor to additional compensation.

23. Video Prior to Construction. Contractor shall provide the Town with a video of the entire work site prior to beginning construction, including all adjacent areas, at Contractor's own expense. One copy of the video shall be provided to the Town and become the property of the Town prior to the commencement of any Work.

24. Existing Improvements and Restoration.

A. Contractor has field inspected the work site and fully understands that existing landscaping and improvements are present within the work site. Such existing improvements shall be protected. Any damage or disruption in the public right-of-way, drainage easements, Town property, or private property related to the Work shall be restored to pre-existing or better condition.

B. Contractor shall be responsible for replacing all existing improvements, including irrigation systems and landscaping, damaged during Contractor's activities, except as otherwise provided in the Contract Documents.

25. Erosion Control. Contractor shall provide an erosion/sediment control plan for use during construction. The plan shall include site specific details showing the type,

location, and quantity of BMP's to be used. The erosion/sediment control plan shall be designed to prevent sediment from leaving the construction area. Special attention shall be given to prevent sediment from entering into any wetland area.

26. Vandalism. Contractor shall take all necessary steps to protect the work site from vandalism. Contractor shall be solely responsible to repair any damage caused by vandalism, including the removal of graffiti, at Contractor's own cost. The Contract Price or Job Order Price shall not be increased to reimburse Contractor for such costs.

Job Order Contract (JOC) Special Conditions

The following clarifications and modifications apply to the General, Supplemental and Special Provisions:

- a) When the term "Contract" is used to describe the Work associated with an individual project, the term "Contract" shall be replaced with "Job Order".
- b) When the term "Contract Time" is used to describe the duration associated with an individual project, the term "Contract Time" shall be replaced with "Job Order Completion Time".
- c) When the term "Contract Sum or Price" is used to describe the value associated with an individual project, the term "Contract Sum or Price" shall be replaced with "Job Order Price".
- d) The Job Order Price shall set forth the fixed price, lump sum amount for which Contractor is paid to complete the Detailed Scope of Work. Unless specifically stated for a Job Order, estimated quantities, lists of materials and bid prices shall not apply, the descriptions as related to costs and payment shall not apply, and the payment sections within the individual sections shall not apply.
- e) All references to "Bid Items" shall be interpreted to mean Work tasks necessary to complete the Detailed Scope of Work.
- f) All references to "change order work", "extra work", "force account work", and any other descriptions to changes to the Detailed Scope of Work shall be interpreted to mean work described in a Detailed Scope of Work of a Supplemental Job Order.
- g) The Construction Task Catalog® shall govern the work included in the Unit Price of a Pre-Priced Task.

1. Definitions

- 1.1. **Adjustment Factor** - A competitively bid adjustment to be applied to the Unit Prices listed in the Construction Task Catalog®.
- 1.2. **Award Criteria Figure** - The amount determined in the Award Criteria Figure Calculation section of the Bid Form, which is used for the purposes of determining the lowest Bid.
- 1.3. **Base Term** - The initial period of the Contract and does not include any Option Terms.
- 1.4. **Construction Task Catalog®** - A comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price.
- 1.5. **Detailed Scope of Work** - A document setting forth the work Contractor is obligated to complete for a particular Job Order.

- 1.6. **Estimated Annual Value** - An estimate of the value of Job Orders that could be issued to Contractor each year.
- 1.7. **Job Order** - A written order issued by the Town, such as a Purchase Order, requiring Contractor to complete the Detailed Scope of Work within the Job Order Completion Time for the Job Order Price. A project may consist of one or more Job Orders.
- 1.8. **Job Order Completion Time** - The time within which Contractor must complete the Detailed Scope of Work.
- 1.9. **Job Order Price** - The value of the approved Job Order Price Proposal and the amount Contractor will be paid for completing a Job Order.
- 1.10. **Job Order Price Proposal** - A price proposal prepared by Contractor that includes the Pre-priced Tasks, Non Pre-priced Tasks, quantities and appropriate Adjustment Factors required to complete the Detailed Scope of Work.
- 1.11. **Job Order Proposal** - A set of documents including at least: (a) Job Order Price Proposal; (b) required drawings or sketches; (c) list of anticipated Subcontractors and Materialmen; (d) Construction schedule; and (e) other requested documents.
- 1.12. **Joint Scope Meeting** - A site meeting to discuss the work before the Detailed Scope of Work is finalized.
- 1.13. **Non Pre-priced Task** - A task that is not set forth in the Construction Task Catalog[®].
- 1.14. **Normal Working Hours** - Normal Working hours is work performed including the hours of 7:00 a.m. to 6:00 p.m., Monday-Friday, except for Town holidays.
- 1.15. **Notice to Proceed** - A written notice issued by the Town directing Contractor to proceed with construction activities to complete the Job Order.
- 1.16. **Option Term** - An additional period of time beyond the Contract Time which extends the termination date of the Contract.
- 1.17. **Other than Normal Working Hours**- Include the hours of 6:00 p.m. to 7:00 a.m., Monday-Friday and all day Saturday, Sunday and Town Holidays.
- 1.18. **Pre-priced Task** - A task described in, and for which a Unit Price is set forth in, the Construction Task Catalog[®].
- 1.19. **Project** - The collective improvements to be constructed by Contractor pursuant to a Job Order, or a series of related Job Orders.
- 1.20. **Request for Proposal** - A written request to Contractor to prepare a Proposal for the Detailed Scope of Work referenced therein.

- 1.21. **Secured Facilities** – Any facility deemed to be “Secured” by the Town will require, at a minimum, tool inventory and a series of check in procedures. For each facility, the Town Project Manager shall determine and communicate the access and egress requirements in each request for Job Order Proposal.
- 1.22. **Supplemental Job Order** - A secondary Job Order developed after the initial Job Order has been issued for the purpose of changing, deleting, or adding work to the initial Detailed Scope of Work, or changing the Job Order Completion Time.
- 1.23. **Unit Price** - The price published in the Construction Task Catalog® for a specific construction or construction related work task. Unit Prices for new Pre-priced Tasks can be established during the course of the Contract and added to the Construction Task Catalogs®. Each Unit Price is comprised of labor, equipment, and material costs to accomplish that specific Pre-priced Task.

2. Contractor Selection

- 2.1. Job Order Contracting: The Town may award an individual Job Order to any selected Contractor. Selection of Contractor and award of the Job Order will be in compliance with established Town procedures and based on one or more of the following criteria:
 - 2.1.1. Rotational selection among all contractors, unless otherwise determined by the Town.
 - 2.1.2. Evaluation of past and current performance on Job Orders of a similar nature and type of work, project size, construction management challenges, schedule performance, and design management.
 - 2.1.3. Balancing Job Order volume among contractors.
 - 2.1.4. Price, as determined by the Adjustment Factors of contractors.
 - 2.1.5. Limitations posed by bonding capacity of the contractors.
 - 2.1.6. Other appropriate criteria as deemed in the best interest of the Town.

3. Contractor’s Personnel

- 3.1. Contractor shall assign a full-time person as its representative for this Contract. This person shall be acceptable to the Town and shall have a cell phone at which they can be reached at all times.
- 3.2. Contractor shall have an office with the Town or within the County in which the work is being completed, or if the office is located in another location, offices will be approved at the Town’s discretion.
- 3.3. Contractor shall also have at all times an Office Manager and a Superintendent assigned to this Contract. Additional staff will be provided depending on the volume of work. For each Job Order issued, Contractor shall identify the Superintendent responsible for that Job Order. The

Superintendent shall be reachable 24 hours a day, 7 days a week. If the named Superintendent is not available because of illness or vacation or the like, Contractor shall notify the Town of a substitute Superintendent. At all times, Contractor shall provide at least one Superintendent for every 4 Job Orders. Whenever, in the sole discretion of the Town, Contractor is not providing a sufficient level of supervision, the Town may direct Contractor to increase the level of supervision for any or all projects, including but not limited to the right to direct Contractor to assign a full time, dedicated Superintendent for any project; submit daily management, inspection, activity, and planning reports; substitute subcontractors; submit daily photographs of the work in place and the work areas prepared for the next day's work; and develop a site specific quality control program, all at no cost to the Town.

4. Procedure for Ordering Work

- 4.1. Conduct the Joint Scope Meeting
- 4.2. As the need exists, the Town will notify Contractor of a Project, schedule a Joint Scope Meeting and issue a Notice of Joint Scope Meeting.
- 4.3. Contractor does not have the right to refuse to perform any Project, Pre-priced Task, or Non Pre-priced Task.
- 4.4. Contractor shall attend the Joint Scope Meeting and discuss, at a minimum:
 - 4.4.1. The work to be performed;
 - 4.4.2. Presence of hazardous materials;
 - 4.4.3. Job Order specific Insurance (if any);
 - 4.4.4. Required permits – including drawings for permits;
 - 4.4.5. Long lead time materials;
 - 4.4.6. Protocol for workers entering the site;
 - 4.4.7. Staging area and areas that are off-limits;
 - 4.4.8. Construction schedule and work hours – with critical milestones and phasing requirements;
 - 4.4.9. Controlled inspections, testing requirements;
 - 4.4.10. Value Engineering suggestions;
 - 4.4.11. Organization of Price Proposal – by location, by corner, etc.;
 - 4.4.12. Due Date for Detailed Scope of Work and for Price Proposal; and
 - 4.4.13. The Traffic Control Plan, if required
- 4.5. Upon completion of the joint scoping process, the Town will prepare a draft Detailed Scope of Work referencing any sketches, drawings, photographs,

and specifications required to document accurately the work to be accomplished. Contractor shall review the Detailed Scope of Work and request any required changes or modifications. When an acceptable Detailed Scope of Work has been prepared, the Town will issue a Request for Proposal that will require Contractor to prepare a Job Order Proposal. The Detailed Scope of Work, unless modified by both Contractor and the Town, will be the basis on which Contractor will develop its Job Order Proposal and the Town will evaluate the same. Contractor does not have the right to refuse to perform any task or any work in connection with a particular Project.

- 4.6. The Town may, at its option, include quantities in the Detailed Scope of Work if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed Scope of Work is prepared, if Contractor and the Town cannot agree on the quantities required, or for any other reason as determined by the Town. In all such cases, the Town shall issue a Supplemental Job Order adjusting the quantities appearing in the Detailed Scope of Work to the actual quantities.
- 4.7. If Contractor requires additional information to clarify the Detailed Scope of Work before preparing the Job Order Proposal, Contractor shall make such request quickly so that the Job Order Proposal can be submitted on time.

5. Preparation of a Job Order Proposal

- 5.1. Contractor's Job Order Proposal shall include, at a minimum:
 - 5.1.1. Job Order Price Proposal;
 - 5.1.2. Support documentation for Non Pre-priced Tasks;
 - 5.1.3. Required drawings or sketches;
 - 5.1.4. List of anticipated Subcontractors including a MBE/WBE Certification;
 - 5.1.5. Construction schedule; and
 - 5.1.6. Other requested documents.
- 5.2. The Job Order Price shall be the value of the approved Job Order Price Proposal.
- 5.3. The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Tasks (Unit Price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.
- 5.4. Contractor shall prepare Job Order Price Proposals in accordance with the following:
 - 5.4.1. Pre-priced Task: Contractor shall select the appropriate Pre-priced Tasks, enter the accurate quantities, and select the appropriate Adjustment Factor to be used for each such Pre-priced Task. Contractor shall use the Adjustment Factors in effect on the date the

Price Proposal is due, even though the Job Order may be issued after the Adjustment Factors have been updated.

- 5.4.2. Non Pre-priced Task: A task that is not set forth in the Construction Task Catalog®. The final price submitted for Non Pre-priced Tasks shall be according to the following formula:

For Non Pre-priced Tasks Performed with Contractor's own forces:

A = The hourly rate for each trade classification not in the Construction Task Catalog® multiplied by the quantity;

B = The hourly, weekly, or monthly rate for each piece of equipment not in the Construction Task Catalog® multiplied by the quantity;

C = Lowest of three independent quotes for all materials.

Total for Non Pre-priced Tasks performed with Contractor's own forces = (A+B+C) x Non Pre-priced Task Adjustment Factor

For Non Pre-priced Tasks Performed by subcontractors:

If the Non Pre-priced Task will be subcontracted, Contractor must submit three independent quotes for the work.

D = Lowest of 3 subcontractor quotes. If 3 quotes are not attainable, Contractor may submit less than 3 with a letter of justification explaining the circumstances.

Total for Non Pre-priced Tasks performed by subcontractors = D x Non Pre-priced Task Adjustment Factor

- 5.4.3. Information submitted in support of Non Pre-priced Tasks shall include the following without limitation:

5.4.3.1. Catalog cuts, specifications, technical data, drawings, or other information as required to evaluate the task.

5.4.3.2. If Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use Pre-priced Tasks for labor and equipment from the Construction Task Catalog®. If the work is to be subcontracted, Contractor shall submit 3 independent quotes from subcontractors. Contractor shall not submit a quote or bid from any supplier or subcontractor that Contractor is not prepared to use. The Town may require additional quotes and bids if the suppliers or

subcontractors are not acceptable or if the prices are not reasonable. If 3 quotes or bids cannot be obtained, Contractor will provide the reason in writing for the Town's approval.

- 5.4.3.3. After a Non Pre-priced Task has been approved by the Town, the Unit Price for such task will be established, following approval by the Town, and fixed as a permanent Non Pre-priced Task which will no longer require price justification.
 - 5.4.3.4. The Town's determination as to whether a task is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to Contractor.
- 5.5. Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Job Order Price Proposal is less than the cost of the actual labor and material to perform such task, the Town may permit Contractor to be paid for such task as a Non Pre-priced Task, or use Pre-priced labor tasks and material component pricing to cover the actual costs incurred; provided, however, that there is no other work for that trade on the Project or other work for that trade cannot be scheduled at the same time and the final charge does not exceed \$1,000.
 - 5.6. Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid without mark-up. The cost of expediting services or equipment use fees are not reimbursable.
 - 5.7. Contractor shall provide incidental engineering and architectural services required in connection with a particular Job Order including drawings and information required for filing.
 - 5.8. Contractor's Job Order Proposal shall be submitted by the date indicated on the Request for Proposal. All incomplete Job Order Proposals shall be rejected. The time allowed for preparation of Contractor's Job Order Proposal will depend on the complexity and urgency of the Job Order but should average between 7 and 14 days. On complex Job Orders, such as Job Orders requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

- 5.9. In immediate response situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal may be required quickly and the due date will be so indicated on the Request for Proposal or, as described below, Contractor may be directed to begin work immediately with the paperwork to follow.
- 5.10. For purposes of Using the Construction Task Catalog®, the project site is defined as the exterior perimeter of a building. For work not performed in a building, the project site is defined as the limits of the work area.
- 5.11. By submitting a Job Order Proposal to the Town, Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the price submitted. It is Contractor's responsibility to include the necessary tasks and quantities in the Job Order Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to the Town.
- 5.12. If Contractor requires clarifications or additional information regarding the Detailed Scope of work in order to prepare the Job Order Proposal, the request must be submitted so that the submittal of the Job Order Proposal is not delayed.
- 5.13. If Contractor is required to work in a secured facility or location where labor, materials, and equipment must be inspected, Contractor will be permitted to add labor hours to the Job Order Price Proposal to account for lost time as a result of such inspection.

6. Review of the Job Order Proposal and Issuance of the Job Order

- 6.1. The Town will evaluate the entire Job Order Price Proposal and compare these with the Town's estimate of the Detailed Scope of Work to determine the reasonableness of approach, including the appropriateness of the tasks and quantities proposed. All incomplete Job Order Proposals will be rejected. The Town will review the Price Proposal to determine the accuracy of the Pre-priced Tasks, quantities, Adjustment Factors, and Non Pre-priced Tasks.
- 6.2. Contractor may choose the means and methods of construction; subject however, to the Town's right to reject any means and methods proposed by Contractor that:
 - 6.2.1. Will constitute or create a hazard to the work, or to persons or property;
 - 6.2.2. Will not produce finished Work in accordance with the terms of the Contract; or
 - 6.2.3. Unnecessarily increases the price of the Job Order when alternative means and methods are available.
- 6.3. The Town reserves the right to reject a Job Order Proposal or cancel a Project for any reason. The Town also reserves the right not to issue a Job Order if it is determined to be in the best interests of the Town. The Town may

perform such work by other means. Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Job Order Proposal with the Town.

- 6.4. By submitting a Job Order Proposal, Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the lump sum price submitted. It is Contractor's responsibility to include the necessary Pre-priced Tasks and Non Pre-priced Tasks and quantities in the Job Order Price Proposal prior to delivering it to the Town.
- 6.5. It is Contractor's responsibility to include the necessary Pre-priced Tasks and Non-Pre-priced Tasks, accurate quantities, and correct Adjustment Factors in the Price Proposal prior to delivering it to the Town.
- 6.6. If the Job Order Proposal is found to be complete and accurate, the Town may issue a Job Order to Contractor.
- 6.7. The Job Order signed by the Town and delivered to Contractor constitutes the Town's acceptance of Contractor's Job Order Proposal.
- 6.8. A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time and the Job Order Price. The Job Order Price shall be the value of the approved Price Proposal.
- 6.9. All clauses of this Contract shall apply to each Job Order.
- 6.10. Contractor will be paid the Job Order Price for completing the Detailed Scope of Work within the Job Order Completion Time.
- 6.11. The Town, without invalidating the Job Order, may order changes in the Detailed Scope of Work by adding to, changing, or deleting from the Detailed Scope of Work, by issuing a Supplemental Job Order. All Supplemental Job Orders shall be developed in accordance with these procedures for ordering work.
- 6.12. The Town may decide not to issue a Job Order under development, may decide to cancel a Job Order or any portion of a Job Order, or cancel a Project or any portion of a Project, for any reason. In such case, Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to attending the Joint Scope Meeting, preparing or reviewing the Detailed Scope of Work, preparing a Job Order Proposal (including incidental architectural and engineering services), subcontractor costs, or reviewing the Job Order Proposal with The Town. The Town may perform such work by other means.
- 6.13. A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. A separate Job Order will

be issued for each Project. Extra work, credits, and deletions will be contained in a Supplemental Job Order. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work,

- 6.14. Each Job Order provided to Contractor shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Contract shall be applicable to each Job Order. The Job Order, signed by the Town and delivered to Contractor constitutes the Town's acceptance of Contractor's Job Order Proposal. A signed copy of the Job Order will be provided to Contractor.
- 6.15. In the event that immediate emergency response is necessary, Contractor shall be required to follow alternative procedures as established by the Town. Contractor shall begin work as directed notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work, or Job Order. Contractor shall be compensated for such work as if the work had been ordered under the standard procedures. Contractor must submit to the Town's Representative, their emergency procedure/ safety plan prior to starting work. Contractor must be responsible for quality assurance and quality control.

7. Changes in the Work

- 7.1. The Town, without invalidating the Job Order, may order changes in the Work by altering, adding to or deducting from the Work, by issuing a Supplemental Job Order.
- 7.2. All Supplemental Job Orders shall be developed and priced in accordance with the Procedures for Developing All Job Orders
- 7.3. Credits for Pre-priced and Non Pre-priced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.

8. Contract Modifications

- 8.1. Changes to the Contract may be accomplished after execution of the Contract and without invalidating the Contract, by Contract Amendment.

9. Payments

- 9.1. The Town will make one payment for all Job Orders that have a Job Order Completion Time of 45 days or less, or a Job Order Price of \$25,000 or less. For all other Job Orders, the Town may make partial, monthly payments based on a percentage of the work completed.
- 9.2. Before submitting an Application for Payment (Final or Partial), Contractor shall reach an agreement with the Project Manager concerning the

percentage complete of the detailed Scope of work and the dollar value for which the Application for Payment may be submitted.

10. Job Order Contracting Software

10.1. Job Order Contracting Software

10.1.1. The Town selected The Gordian Group's (Gordian) Job Order Contracting ("JOC") System for the JOC program. The Gordian JOC Solution includes Gordian's proprietary JOC System Software and JOC applications (JOC Applications) and construction cost data (Construction Task Catalog[®]), which shall be used by Contractor solely for the purpose of fulfilling its obligations under this Contract, including preparation and submission of Job Order Proposals, subcontractor lists, and other requirements specified by the Town. Contractor's use, in whole or in part, of Gordian's JOC Applications, Construction Task Catalog[®] and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for the Town is strictly prohibited unless otherwise approved in writing by Gordian. Contractor shall be required to execute Gordian's JOC System License and Fee Agreement, and pay a 1% JOC System License Fee to obtain access to the Gordian JOC Solution. This Gordian JOC Solution is expressly excepted from Section IV of the Construction Contract.

11. ENR CCI Adjustment of the Adjustment Factors

11.1. Economic Price Adjustment: The Adjustment Factors may be updated on each anniversary of the Effective Date to account for changes in construction costs, provided, Contractor requests in writing, approximately 14 to 30 days prior to such anniversary, that the Adjustment Factors be updated. The request shall be delivered to the Town and to Gordian. If Contractor fails to deliver the request timely, then the Town shall determine the date on which the Adjustment Factors will be updated, but in no event will such date be later than thirty days after the written request to update the Adjustment Factors is received by the Town. Thereafter, Contractor's Adjustment Factors will be adjusted according to the following:

11.2.A Base Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) for the average of the twenty cities, published in the Engineering News Record (ENR) for the 12 months immediately prior to the month of the bid due date (e.g. February bid due date, Base Year Index is February of the prior year to January of the bid due date year).

11.3.A Current Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) for the average of the 20 cities published in the Engineering News Record (ENR) for the 12 months beginning with the

month of anniversary of the bid due date (*e.g.* February bid due date, Current Year Index is February of the prior year to January of the current year).

- 11.4. The Economic Price Adjustment shall be calculated by dividing the Current Year Index by the Base Year Index.
- 11.5. Contractor's original Adjustment Factors shall be multiplied by the Economic Price Adjustment to obtain Contractor's new Adjustment Factors effective for the next 12 months.
- 11.6. Averages shall be obtained by summing the 12-month indices and dividing by 12.
- 11.7. All calculations shall be carried to the fifth decimal place and rounded to the fourth decimal place. The following rules shall be used for rounding:
 - 11.7.1. The fourth decimal place shall be rounded up when the fifth decimal place is 5 or greater.
 - 11.7.2. The fourth decimal place shall remain unchanged when the fifth decimal place is less than 5.
- 11.8. ENR occasionally revises indices. ENR CCIs used in the calculations described above shall be those currently published at the time the Economic Price Adjustment calculation is performed. No retroactive adjustments will be made as a result of an ENR revision. Revised CCI indices, if any, shall be used in subsequent calculations.
- 11.9. If Contractor submits a Price Proposal with outdated Adjustment Factors, then Contractor waives its right to resubmit the Price Proposal using updated Adjustment Factors.
- 11.10. Contractor cannot delay submitting a Job Order Proposal to take advantage of a scheduled update of the Adjustment Factors. In that event, Contractor shall use the Adjustment Factors that would have been in effect without the delay.
- 11.11. The Non Pre-priced Adjustment Factor shall remain fixed for the duration of the Contract.

12. As-Built Drawings

- 12.1. If Contractor is provided, or prepares, drawings as part of the Detailed Scope of Work, then, as the Detailed Scope of Work progresses, Contractor shall keep a complete and accurate record of changes to, and deviations from, such drawings. The As-Built Drawings will be created in the same medium (paper, electronic) in which they were originally prepared.



Budget Change Request Form

*This form should be used for budget transfer requests. For instructions, please refer to the [Transfer Policy](#).

Department: Utilities

Date: 5/28/2025

From:

Account Title: Drainage Facility M&R

Tyler Account #: 510-75-750-536020-000000 **\$ 127,000**

To:

Account Title: Culvert Replacement

Tyler Account #: 520-75-110-605000-257520 **\$ 127,000**

Justification: Construction costs for replacing two culverts in Kenosha Farms were higher than expected. Requesting transfer from the Drainage Facility M&R project to cover the additional cost at the June 10, 2025, Council meeting.

Initiated by: 
DocuSigned by:
B8EB4BE9356F479...

Date: 5/29/2025 | 5:38 PM MDT

Approved by: 
Signed by:
9F0EF90F4D29421...

Date: 5/29/2025 | 6:25 PM MDT

Approved by:

Date:



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-347, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving a Sixth Amendment to the Lease Agreement with Vector Air Management, LLC

DEPARTMENT: Public Works Department

PRESENTER(S): Todd Fessenden, Utilities Director

FISCAL SUMMARY:

Cost as Recommended: \$21,000 (revenue)
Budget Line Item Number: 530-00-000-481060-000000

POLICY ISSUES:

The current lease agreement with Vector Air to operate the airport expires on June 30, 2025. In keeping with the Town Finance Purchasing Policy, we need to have a valid contract with any contractor and therefore would like to amend the existing lease agreement to extend it through Dec. 31, 2025.

STAFF RECOMMENDATION:

Approve the Resolution amending the agreement.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

On April 28, 2023, the Town of Erie entered into a contract with ABS Aviation Consultancy, Inc dba Airport Business Solutions (ABS) to review the existing management and Fixed Base Operations (FBO) services agreements between the Town and Vector Air. Based on ABS's recommendations, Town staff negotiated a proposed Management Agreement to separate the airport management and FBO into two independent agreements - one for airport management and one for FBO services. Staff is still in negotiations with Vector Air for the FBO Agreement.

Staff engaged Business Aviation Group (BA) and sub-consultant Airside FBO to assist in developing lease rates and property values. Staff also engaged legal counsel Kaplan Kirsch LLP (KK) to work with Town staff and BA to draft an FBO Agreement, as well as provide specialized aviation legal support. Staff sent the draft FBO Agreement to Vector Air on Aug. 23, and in recent discussions, Vector has requested reasonable changes for which staff asked them to provide additional support documentation. Staff believe such changes warrant additional discussion with Council.

This amendment allows Vector Air to operate the FBO and occupy the building through December 2025 as we work through final negotiations, and allows the Town to continue receiving \$3,500 per month in rent.

The Council approved the fifth amendment on March 11, 2025, and it will expire on June 30, 2025. Staff requests this amendment to allow time to complete negotiations, obtain guidance from Council and ultimately bring a final draft forward for Council consideration.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Well-Maintained Transportation Infrastructure
- ✓ Safe and Healthy Community
- ✓ Fiscally Responsible

ATTACHMENT(S):

1. Resolution
2. Sixth Amendment
3. Lease Agreement 12/12/2023

**Town of Erie
Resolution No. 25-096**

**A Resolution of the Town Council of the Town of Erie Approving a
Sixth Amendment to the Lease Agreement with Vector Air
Management, LLC**

Whereas, on December 12, 2023, the Town entered into a Lease Agreement with Vector Air Management LLC.; and

Whereas, on March 26, 2024, June 25, 2024, September 24, 2024, December 10, 2024, and March 11, 2025, the parties amended the Lease Agreement, and wish to amend the Agreement again.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Sixth Amendment to the Lease Agreement is hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Sixth Amendment on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Sixth Amendment to Lease Agreement

This Sixth Amendment to Lease Agreement (the "Amendment") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and Vector Air Management, LLC, a Colorado limited liability company with a principal place of business at 395 Airport Drive, Erie, CO 80516 ("Lessee") (each a "Party" and collectively the "Parties").

Whereas, the Town is the owner and operator of the Erie Municipal Airport, more particularly described in **Exhibit A**, attached and incorporated by this reference (the "Airport");

Whereas, on December 12, 2023, the Parties entered into a Lease Agreement for the Airport;

Whereas, on March 26, 2024, the Parties amended the Lease Agreement to extend the term (the "First Amendment");

Whereas, on June 25, 2024, the Parties amended the Lease Agreement to extend the term (the "Second Amendment");

Whereas, on September 24, 2024, the Parties amended the Lease Agreement to extend the term (the "Third Amendment");

Whereas, on December 10, 2024, the Parties amended the Lease Agreement to extend the term (the "Fourth Amendment");

Whereas, on March 11, 2025, the Parties amended the Lease Agreement to extend the term (the "Fifth Amendment"); and

Whereas, the Parties wish to amend the Lease Agreement again to extend the term.

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The term of the Lease Agreement shall be extended through December 31, 2025.
2. All other provisions of the Lease Agreement shall remain in full force and effect as written.

In Witness Whereof, the Parties have executed this Fourth Amendment as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Lessee

DocuSigned by:
Jason Hurd
0B9FF46A3D3648F...

State of Colorado)
) ss.
County of _____)

Subscribed, sworn to and acknowledged before me this _____ day of _____, 2025, by _____ as _____ of Vector Air Management, LLC.

My Commission expires:

(Seal)

Notary Public

Lease Agreement

This Lease Agreement (the "Agreement") is made and entered into this 12th day of December, 2023 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and Vector Air Management, LLC, a Colorado limited liability company with a principal place of business at 395 Airport Drive, Erie, CO 80516 ("Lessee") (each a "Party" and collectively the "Parties").

Whereas, the Town is the owner and operator of the Erie Municipal Airport, more particularly described in **Exhibit A**, attached and incorporated by this reference (the "Airport");

Whereas, on July 1, 2011, the Parties executed a Management and Operating Agreement for the Erie Municipal Airport which Original Agreement was amended in 2011, 2016 and 2017 (collectively the "Original Agreement");

Whereas, the Parties wish to enter into this Agreement and terminate the Original Agreement; and

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Property. The Town owns the building and real property located at 395 Airport Drive, Erie, Colorado (the "Property"). Subject to the provisions of this Agreement, the Town hereby leases the Property to Lessee. Lessee has inspected the physical condition of the Property and receives the Property in "as is" condition. The Town makes no representations or warranties with respect to the condition of the Property or its fitness for any particular use, and the Town shall not be liable to Lessee for any latent or patent defect on the Property.

2. Term. The term of this Agreement shall commence on January 1, 2024 and continue through March 31, 2024 (the "Term").

3. Rent and Security Deposit.

a. Lessee shall pay to the Town rent in the amount of \$3,500 per month, which shall be due and payable on the first day of each month.

b. There shall be no security deposit.

4. Use and Occupancy.

a. *Use Limitations*. Lessee shall use the Property for office purposes. Lessee shall not permit the Property to be used for any illegal purpose and will not perform any

act that may be a nuisance, annoyance, or inconvenience to the Town or any other lessee of the Property.

b. *Alteration of Property.* Lessee shall not, without the prior written consent of the Town, make any alterations, improvements, or additions to the Property, including without limitation partitions, wall coverings, floor coverings and special lighting installations.

c. *Hazardous Materials and Substances.* Lessee shall at all times comply with all applicable laws, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to, without limitation, the following: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; the protection of human health, safety or the indoor or outdoor environment; all applicable environmental statutes of the State of Colorado; and all federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

d. *Maintenance.* Lessee shall keep and maintain the Property in a sanitary condition and comply with all fire, safety, health, environmental, building, zoning, anti-discrimination and all other laws regulating the use of the Property now or hereafter in force.

e. *Conduct.* Lessee shall not cause or permit any disorderly conduct, noise or nuisance upon or about the Property which may annoy or disturb other tenants located in the Property or persons on adjacent property.

f. *Damage.* If any part of the Property is damaged or destroyed through the intentional act, negligence, carelessness or abuse of or by Lessee, Lessee's agents, employees, contractors, or invitees, the cost of all necessary repairs and replacements shall be paid by Lessee to the Town on demand.

g. *Covenant of Quiet Enjoyment.* The Town covenants that Lessee shall enjoy quiet and undisturbed possession of the Property during the term period and any subsequent renewal term, subject to the terms and conditions of this lease.

h. *Entry and Inspection by the Town.* The Town and the Town's agents and employees shall have the right to enter the Property at all reasonable times for the purpose of examination or inspection, and to make such alterations, repairs, improvements or additions to the Property as the Town deems necessary or desirable.

i. *Abandonment of Personal Property.* If Lessee abandons, vacates or surrenders the Property or is dispossessed by process of law or otherwise, then any

personal property belonging to Lessee and left on the Property shall be deemed abandoned.

j. *Signage.* Lessee shall have the right to install signs upon the Property with prior written approval by the Town and subject to any applicable governmental law, ordinances, regulations, and other requirements. Lessee shall remove all such signs at the termination of this Agreement. Such installations and removals shall be made in such manner as to avoid injury or defacement of the Property, and Lessee shall repair any injury or defacement, caused by such installation and/or removal. Lessee shall not place or display political or election signs, banners, posters, or endorsements for any political or election cause, candidate, or party anywhere on the Property without prior written consent of the Town.

k. *Utilities.* Lessee shall pay for cost of all utilities and services, of every kind and nature, used on the Property. Service shall be designated in the name of the Lessee as of the Effective Date. Lessee shall pay for such costs directly. With regard to any costs which the Town must pay on Tenant's behalf, such costs shall be paid by Lessee to the Town as incurred and shall be considered as additional rent. The Town shall in no event be liable for any interruption or failure of utility services on the Property. Lessee agrees to pay promptly for all such utilities and services and to indemnify and hold harmless the Town from any and all claims for payments of the utilities and services for which Lessee has sole responsibility.

5. Default.

a. *Event of Default.* The failure by Lessee to comply with any provision of this Agreement shall constitute a default of this Agreement.

b. *Remedies.* Upon a default, the Town may re-enter and take possession of the Property. In addition, the Town may take any action at law or in equity to enforce performance of any obligation of Lessee under this Agreement. The Town's remedies shall be cumulative, and the exercise of one remedy shall not prevent the exercise of any other available remedy.

c. *Attorney Fees and Costs.* If the Town brings suit to enforce any provision of this Agreement or for recovery of the Property, the Town shall be entitled to all costs incurred in connection with such action, including reasonable attorney fees.

6. Indemnification. Lessee agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement.

7. Insurance.

a. *Coverages.* Throughout the term of this Agreement, Lessee shall maintain, at its sole cost and expense, the following insurance:

i. Comprehensive broad form general public liability insurance in common use for with extended coverage endorsement protecting the Town and Lessee and covering the Property and Lessee's use thereof against claims for personal injury, death and property damage occurring upon, in or about the Property, such insurance to afford protection to a limit of not less than \$2,000,000 combined single limit.

ii. Workers' compensation insurance as required by law.

b. *Form.* All policies shall be issued by solvent insurance companies licensed to do business in Colorado. The commercial policy shall be written as a primary policy, which does not contribute to and is not in excess of coverage carried by the Town. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days' prior written notice to the Town. In the case of a claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Lessee. Lessee shall be solely responsible for any deductible losses under any policy.

8. Miscellaneous.

a. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

b. *Severability.* If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each provision of this Agreement shall be valid and enforceable to the extent permitted by law.

c. *Governing Law and Venue.* This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, and any legal action arising out of this Agreement shall be brought in Weld County, Colorado.

d. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the other Party at the address set forth on the first page of this Agreement.

e. *Successors.* This Agreement shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors, representatives, administrators, executors and devisees.

f. *Assignment and Subletting.* Lessee shall not assign this Agreement or sublet any portion of the Property without the prior written consent of the Town. Any such assignment or subletting without the Town's consent shall be void.

g. *No Waiver.* A failure of a Party to enforce any term of this Agreement shall not be deemed to be a waiver of any other term of this Agreement.

h. *Subordination.* This Agreement is and shall be subordinate to all existing and future liens and encumbrances against the Property.

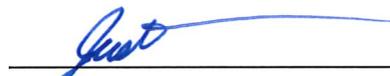
i. *No Joint Venture.* Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

j. *Governmental Immunity.* Nothing herein shall be construed as a waiver of any protections or immunities the Town may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

k. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado


Justin Brooks, Mayor

Attest:


Debbie Stamp, Town Clerk

Lessee

DocuSigned by:
Jason Hurd
0B9FF46A3D3648F...

State of Colorado)
) ss.
County of _____)

Subscribed, sworn to and acknowledged before me this _____ day of _____, 2023, by _____ as _____ of Vector Air Management, LLC.

My Commission expires:

(Seal)

Notary Public



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-338, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving a General Services Agreement with Mr. Asphalt, LLC for Asphalt Maintenance Services

DEPARTMENT: Public Works

PRESENTER(S): Dave Pasic, Public Works Director

FISCAL SUMMARY:

Cost as Recommended:	\$300,000
Balance Available:	\$730,800
Fund	General Fund
Budget Line Item Number:	100-70-425-523000
New Appropriation Required:	No

POLICY ISSUES:

Use of budgeted funds to complete asphalt maintenance. This project serves the Council's goal for maintaining infrastructure.

STAFF RECOMMENDATION:

Approve the resolution

SUMMARY/KEY POINTS

- This is a new general services agreement requiring Council approval.
- This agreement has the option to renew for up to four additional years.

BACKGROUND OF SUBJECT MATTER:

The 2025 Operating Budget includes funds for annual asphalt maintenance services, primarily crack sealing. These contracts are competitively or state-bid and awarded. The purpose of this type of contract is to have a company complete asphalt repairs in various areas throughout the Town on an as-needed basis as funds allow. Each contract allows for a renewal option for up to four consecutive years following the initial award (a total of five years). This is the first year of this contract agreement. Specific work will be determined by the Streets Division. Delaying this service would result in additional deterioration and additional, even higher, future costs.

TOWN COUNCIL PRIORITY(S) ADDRESSED:

- Attractive Community Amenities
- Engaged and Diverse Community
- Prosperous Economy
- Well-Maintained Transportation Infrastructure
- Small Town Feel
- Safe and Healthy Community
- Effective Governance
- Environmentally Sustainable
- Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-098
2. Agreement

**Town of Erie
Resolution No. 25-098**

A Resolution of the Town Council of the Town of Erie Approving an Agreement for Services with Mr. Asphalt, LLC for Asphalt Maintenance Services

Whereas, the Town requires the services of Mr. Asphalt, LLC for asphalt maintenance services.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Agreement for Services with Mr. Asphalt, LLC is hereby approved in substantially the form attached hereto, subject to approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Agreement on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Agreement for Services
(2025 Asphalt Maintenance Services (N25-066))

This Agreement for Services (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado home rule municipality with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516 (the "Town"), and Mr. Asphalt, LLC, an independent contractor with a principal place of business at 9895 W 81st Drive, Arvada, CO 80005 ("Contractor") (each a "Party" and collectively the "Parties").

Whereas, the Town requires services; and

Whereas, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required services.

Now, Therefore, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. Scope of Services

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. Term, Termination, and Renewal

A. This Agreement shall commence on the Effective Date and shall continue through December 31, 2025 unless sooner terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

C. Commencing on January 1, 2026, this Agreement shall automatically renew for 4 additional 12-month terms, unless prior to December 1 of any given year, either

Party provides notice that the Agreement will be terminated as of December 31 of that year. Contractor shall provide the Town with the proposed increase for the following year on or before November 1 of each year.

III. Compensation

In consideration for the work performed by Contractor under the Scope of Services, the Town shall pay Contractor as set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. For each renewal term, the unit prices listed in Exhibit B may not increase by more than 2% or the amount of inflation reported in the Denver-Boulder-Greeley Consumer Price Index, All Items, whichever is greater.

IV. Responsibility

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein. The work performed by Contractor shall be in accordance with generally accepted level of competency presently maintained by others in the same or similar type of work in the applicable community.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Contractor shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

D. Contractor shall comply with the accessibility standards for an individual with a disability adopted by the State Office of Information Technology pursuant to C.R.S. § 24-85-103, and shall indemnify, hold harmless and assume liability on behalf of the Town and its officers, employees, agents and attorneys for all costs, expenses, claims, damages, liabilities, court awards, attorney fees and related costs, and any other amounts incurred by the Town in relation to Contractor's noncompliance with such accessibility standards.

V. Ownership

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor; provided that Contractor shall have no liability for any work that has been modified by the Town.

VI. Independent Contractor

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. Insurance

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and

extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. Indemnification

Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor.

IX. Miscellaneous

A. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

B. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

E. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

F. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

H. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. *Governmental Immunity.* The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. *Rights and Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Exhibit A Scope of Services

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Contractor shall perform general removal and replacement of damaged asphalt infrastructure, including without limitation full depth, infrared, overlay patching, and other projects as needed or necessary at various locations throughout the Town.

Exhibit B Compensation

Contractor shall be paid based on the unit prices listed below.

Item No	Description	UOM	Quantity	Price	Total Cost
1	Mobilization (per event)	Lump-Sum	1	450.00	450.00
2	Traffic Control (per event)	Lump-Sum	1	450.00	450.00
3	Remove & Replace Asphalt Repair 0-4" thick, 0 - 200 SF	Square Foot/Feet	1	7.00	7.00
4	Remove & Replace Asphalt Repair 5-6" thick, 0 - 200 SF	Square Foot/Feet	1	7.50	7.50
5	Remove & Replace Asphalt Repair 7-8" thick, 0 - 200 SF	Square Foot/Feet	1	9.50	9.50
6	Remove & Replace Asphalt Repair 9-12" thick, 0 - 200 SF	Square Foot/Feet	1	12.50	12.50
7	Remove & Replace Asphalt Repair 0-4" thick, 201 - 500 SF	Square Foot/Feet	1	5.50	5.50
8	Remove & Replace Asphalt Repair 5-6" thick, 201 - 500 SF	Square Foot/Feet	1	6.07	6.07
9	Remove & Replace Asphalt Repair 7-8" thick, 201 - 500 SF	Square Foot/Feet	1	7.80	7.80
10	Remove & Replace Asphalt Repair 9-12" thick, 201 - 500 SF	Square Foot/Feet	1	10.55	10.55
11	Remove & Replace Asphalt Repair 0-4" thick, over 500 SF	Square Foot/Feet	1	4.00	4.00
12	Remove & Replace Asphalt Repair 5-6" thick, over 500 SF	Square Foot/Feet	1	5.50	5.50
13	Remove & Replace Asphalt Repair 7-8" thick, over 500 SF	Square Foot/Feet	1	7.03	7.03
14	Remove & Replace Asphalt Repair 9-12" thick, over 500 SF	Square Foot/Feet	1	9.33	9.33
15	Remove & Replace Subgrade Over Excavation	Square Yard	1	50.00	50.00
16	Infrared Patching	Square Foot/Feet	1	20.00	20.00
17	Overlay Patching	Square Foot/Feet	1	5.00	5.00
18	Saw cutting	Linear Foot/Feet	1	4.00	4.00
19	Milling / Grinding	Linear Foot/Feet	1	12.50	12.50

The total annual compensation under this Agreement shall not exceed \$300,000.

Certificate Of Completion

Envelope Id: ECA256EC-A048-4941-832F-D71D331DF0E8
 Subject: Complete with Docusign: GSA - 2025 Asphalt Maintenance Services.pdf
 Source Envelope:
 Document Pages: 8
 Certificate Pages: 4
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Completed
 Envelope Originator:
 Kris McDaniel
 645 Holbrook Street
 P.O. Box 750
 Erie, CO 80516
 krismc@erieco.gov
 IP Address: 50.206.104.130

Record Tracking

Status: Original
 5/21/2025 10:30:34 AM
 Holder: Kris McDaniel
 krismc@erieco.gov
 Location: DocuSign

Signer Events

Michael Brown
 michaelb@mrasphalt.co
 Security Level: Email, Account Authentication
 (None)

Signature

DocuSigned by:

 EA1634F5F73B45E...

Timestamp

Sent: 5/21/2025 10:34:23 AM
 Viewed: 5/21/2025 9:33:35 PM
 Signed: 5/21/2025 9:34:33 PM

Signature Adoption: Pre-selected Style
 Using IP Address: 71.56.220.6

Electronic Record and Signature Disclosure:
 Accepted: 5/21/2025 9:33:35 PM
 ID: 7cc595e8-ffed-4914-9724-7952149f4a09

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/21/2025 10:34:23 AM
Certified Delivered	Security Checked	5/21/2025 9:33:35 PM
Signing Complete	Security Checked	5/21/2025 9:34:33 PM
Completed	Security Checked	5/21/2025 9:34:33 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Town of Erie (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Town of Erie:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: docusign@erieco.gov

To advise Town of Erie of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at docusign@erieco.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Town of Erie

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to townclerk@erieco.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Town of Erie

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to docusign@erieco.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Town of Erie as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Town of Erie during the course of your relationship with Town of Erie.



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-365, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving the Sixth Amendment to the Employment Agreement with Town Manager Malcolm Fleming to Increase the Compensation and Reduce the Severance

DEPARTMENT: Administrative Operations

PRESENTER(S): Malcolm Fleming, Town Manager
Kendra Carberry, Town Attorney

TIME ESTIMATE: 0 minutes

FISCAL SUMMARY:

Cost as Recommended:	\$13,756.26 Increase in Salary, which brings Total Compensation to \$280,021.35, which consists of \$243,027.26 Salary, \$36,454.09 Deferred Compensation contributions to 457 and 401 retirement funds, and \$540 cell phone stipend)
Balance Available:	\$206,904 in 100-20-110-500000 \$59,841 in 100-20-110-501000
Fund:	General Fund
New Appropriation Required:	No

POLICY ISSUES:

Providing competitive compensation and applying the same market and merit percentage increases to the Town Manager as are applied to other Town employees who receive a satisfactory performance evaluation.

STAFF RECOMMENDATION:

Approve the Resolution.

SUMMARY/KEY POINTS

- The Town Manager's Employment Agreement requires the Town Council to review and

evaluate the Town Manager's performance at least once every 12 months.

- Based on Manager Fleming's performance over the past 17 months, and applying the same market and merit percentage increases to the Town Manager as are applied to other Town employees who receive a satisfactory performance evaluation for the 2024-2025 period, Council desires to increase Fleming's compensation by a 3% market adjustment and 3% merit adjustment retroactive to his employment anniversary date of Jan. 9, 2025.
- Council also desires to reduce from 12 months to 6 months the severance payment due Fleming if Council terminates Fleming's employment without cause.
- Depending on expenses in other categories, a supplemental budget request may be needed in December to appropriate additional funds into the account to accommodate the increase in salary. Finance staff will monitor the budget and address this in the supplemental budget if necessary.

BACKGROUND OF SUBJECT MATTER:

On Jan. 8, 2019, the Board of Trustees approved an Employment Agreement with Malcolm Fleming to serve as Town Administrator. The Home Rule Charter approved by Erie voters in 2023 changed the title of the Board of Trustees to Town Council and the title of Town Administrator to Town Manager. The Town Council has approved amendments to the initial 2019 agreement five times since then providing for compensation increases for Fleming.

The Agreement outlines the terms under which Fleming accepted employment and the Council appointed Fleming as Town Manager. Among the terms is the requirement for the Council to evaluate Fleming's performance. This evaluation typically involves considering multiple factors relating to Individual Characteristics, Professional Skills, Relationship with Council, Policy Execution, Information Sharing, Resident Relations, Staffing, Supervision, Fiscal Management, and Community Engagement.

In accord with the employment agreement provisions, in December 2024, Council members discussed but did not finalize their evaluation of Fleming's performance. The new Council seated in January then discussed Fleming's performance on March 25, and again on May 27. Based on those discussions, Council directed Fleming and the Town Attorney to prepare for Council consideration an amendment to the Employment Agreement reflecting the same percentage salary increase applicable to other Town employees who receive a satisfactory performance evaluation; a 3% market adjustment and a 3% merit adjustment, retroactive to Fleming's anniversary date. Fleming's sixth anniversary serving as Town Manager was Jan. 9, 2025. Implementing these increases will set Fleming's salary at \$243,027 per year. Based on the Town's independent consultant's review of 24 other cities and towns in the Town's employment market, this salary is 87% of the 2024/2025 market average.

Council also directed the Employment Agreement be amended to reduce from 12 months to 6 months the severance payment due Fleming if Council terminates Fleming's employment without cause. The employment agreement includes provisions providing no severance if Fleming is

terminated for cause, including if Fleming fails to perform any material term of the Agreement or his job description, or fails to meet his performance goals, and such failure continues for 30 days after written notice from the Town Council specifying the failure and expected corrective action.

The attached documents include the proposed Employment Agreement reflecting these changes as well as a redline version highlighting amendments to the current Employment Agreement. The Town is changing the entity, known as "the Record Keeper" that manages Town employees' 401 and 457 retirement accounts. Accordingly, the amendments to the Agreement also include amendments to reflect the new Record Keeper. Other than these changes, all other terms of the Agreement remain identical.

TOWN COUNCIL PRIORITY(S) ADDRESSED:

- Attractive Community Amenities
- Engaged and Diverse Community
- Prosperous Economy
- Well-Maintained Transportation Infrastructure
- Small Town Feel
- Safe and Healthy Community
- Effective Governance
- Environmentally Sustainable
- Fiscally Responsible

ATTACHMENT(S):

1. Resolution
2. Sixth Amended Employment Agreement
3. Redline version reflecting Amendments to Fifth Amendment Employment Agreement

**Town of Erie
Resolution No. 25-108**

**A Resolution of the Town Council of the Town of Erie Approving
the Sixth Amendment to the Employment Agreement with Town
Manager Malcolm Fleming to Increase the Compensation and
Reduce the Severance**

Whereas, on January 8, 2019, the Board of Trustees appointed Malcolm Fleming to serve as Town Administrator (now Town Manager) under the terms of an Employment Agreement;

Whereas, on February 25, 2020, January 26, 2021, March 8, 2022, January 24, 2023, and February 13, 2024, the Employment Agreement was amended; and

Whereas, it is necessary to amend the terms of the Employment Agreement again.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Sixth Amendment to the Employment Agreement between the Town and Malcolm Fleming is hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Sixth Amendment on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Sixth Amended Employment Agreement

This Sixth Amended Employment Agreement (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (the "Town"), and Malcolm Fleming, an individual with an address of 1115 West Enclave Circle, Louisville, CO 80027 ("Fleming") (each a "Party" and collectively, the "Parties").

Whereas, on January 8, 2019, the Parties entered into an Employment Agreement to outline the terms under which Fleming would accept employment as the Town Manager (the "Employment Agreement");

Whereas, on February 25, 2020, January 26, 2021, March 8, 2022, January 24, 2023, and February 13, 2024, the Parties amended the Employment Agreement; and

Whereas, the Parties wish to amend the Employment Agreement again.

Now therefore, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Employment.** Pursuant to the terms of this Agreement, the Town agrees to employ Fleming as Town Manager, and Fleming accepts such employment. As the Town Manager, Fleming shall be responsible for the organization and efficient administration of all administrative departments of the Town, in accordance with applicable law and the job description attached hereto and incorporated herein by this reference. Though Fleming is an employee of the Town, Fleming shall not be subject to the Town's personnel manual, except for the determination and payment of benefits as set forth in Section 4. During the term of this Agreement, Fleming agrees to remain in the exclusive employ of the Town and neither to accept nor to become employed by any other employer. The term "employed" shall not be construed to include occasional teaching, writing, or consulting, as approved by the Town Council, performed on Fleming's time off with prior written approval of the Town Council.

2. **Term.** This Agreement shall begin on the Effective Date and continue for an indefinite term; provided that Fleming's first day of employment with the Town was January 9, 2019; and further provided that nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Town's Town Council to terminate the services of Fleming at any time for any reason, and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Fleming to resign at any time, for any reason. Nothing contained in this Agreement shall be deemed or construed as creating any property or other right to a continuation of Fleming's employment. For purposes of this Agreement, the anniversary date of Fleming's employment with the Town shall be January 9th of each year (the "Anniversary Date").

3. Compensation. For his employment as Town Manager:

a. Reflecting a 3% market adjustment and a 3% merit adjustment, for a total 6% increase, effective on January 9, 2025, Fleming shall be compensated at an annual base salary of \$243,027 payable in installments at the same time as other management employees of the Town are paid.

b. The Town Council may adjust the base salary and benefits as the Town Council determines appropriate, in the Council's sole discretion.

c. Fleming shall be a full-time employee and shall be considered an exempt employee for purposes of the Fair Labor Standards Act and shall not be entitled to overtime.

4. Benefits. In addition to the Compensation set forth in Section 3, Fleming shall receive the following benefits during his employment as Town Manager:

a. *Insurance.* Health, life, vision and dental insurance shall be paid by the Town for Fleming and his dependents in the same manner as for all other full-time employees of the Town.

b. *Disability.* The Town shall pay for short-term and long-term disability benefits for Fleming in the same manner as for all other full-time employees of the Town.

c. *Holidays, Vacation and Sick Leave.* Fleming shall receive paid holidays, vacation leave and sick leave earned in the same manner as for an employee with at least 9 years of service to the Town.

d. *Retirement.* The Town agrees to pay, in installments at the same time as other management employees of the Town are paid: (i) an amount equal to 10% of Fleming's base salary into Fleming's Town of Erie 401a Plan; and (ii) an amount equal to Fleming's personal contribution into Fleming's Town of Erie 401a Plan, not to exceed 5% of Fleming's base salary. All of the Town's contributions shall vest immediately on Fleming's first day of employment. If the cumulative amount of the Plan contributions exceeds the then-current annual limit under the IRS Code for contributions to a deferred compensation plan, the remainder of the Town's contributions shall be paid to Fleming as taxable compensation in the applicable pay periods. The contributions into Fleming's Town of Erie 401a Plan for 2025 shall be retroactive to January 9, 2025. Fleming may also elect to direct additional portions of his salary into a 457b deferred compensation plan, but the Town of Erie will not match those contributions.

e. *Other Benefits.* Fleming shall receive medical leave, workers' compensation and other benefits paid by the Town in the same manner as for all other full-time employees of the Town.

f. *Mileage.* In exchange for Fleming's use of his personal vehicle for travel for Town business, the Town shall reimburse Fleming for mileage, at the current federal rate. Mileage for commuting to and from work shall not be eligible for reimbursement.

5. Severance.

a. *Amount and Payment.* If Fleming is terminated without cause, he shall receive an amount equivalent to 6 months of Fleming's then-current annual salary plus the benefits set forth in Section 4 (the "Severance Payment"). The Severance Payment shall be paid once as a lump sum amount, provided that the retirement contributions set forth in Section 4.d shall be paid pre-tax into Fleming's 457 Plan and Town of Erie Savings Plan, subject to all required withholding. The Severance Payment shall not be considered an extension of employment. If the amount of the 457 contribution included in the Severance Payment exceeds the then-current limit under the IRS Code for a contribution to a deferred compensation plan, the remainder shall be paid to Fleming in a lump sum as taxable compensation.

b. *Termination for Cause.* If the Town Council terminates Fleming's employment for cause, Fleming shall not be entitled to the Severance Payment. For purposes of this Agreement, "for cause" means any of the following: (i) if Fleming is convicted of any criminal act involving personal gain to Fleming; (ii) if Fleming is convicted of a felony or any crime of moral turpitude; and (iii) if Fleming fails to perform any material term of this Agreement or his job description, or fails to meet his performance goals, and such failure continues for 30 days after written notice from the Town Council specifying the failure and expected corrective action. Termination of Fleming's employment by the Town Council for any reason other than for cause as defined above, including without limitation non-appropriation of funds pursuant to Section 9.j, shall be deemed termination without cause and shall entitle Fleming to receive the Severance Payment.

c. *Resignation.* If Fleming resigns from his position as Town Manager, Fleming shall not be entitled to the Severance Payment.

6. Performance Evaluations. The Town Council shall review and evaluate Fleming's performance at least once every 12 months. Within 90 days of the Anniversary Date each year, Fleming and the Town Council shall work together to develop concrete, reasonable performance goals for the next year of employment, with concrete, reasonable timelines. Fleming's achievement of those goals within those timelines shall be used to determine future salary modifications.

7. Professional Development. Subject to such amounts as may be budgeted, the Town, in its sole discretion, shall pay for expenses related to Fleming's continuing professional development, which includes attendance at various national or state conferences, seminars, and continuing education programs. At a minimum, the Town shall pay for Fleming's membership in the International City/County Management

Association ("ICMA"), the Colorado City & County Management Association ("CCCMA"), the Colorado Municipal League ("CML"), and the Urban Land Institute ("ULI"), and shall pay for Fleming's attendance at the ICMA Annual Conference, the CML Annual Conference and the CCCMA Annual Conference. The Town shall reimburse Fleming's expenses for other memberships, registration, travel, meals or lodging in association with business-related conferences, education or other meetings, according to approved accounts in each annual budget.

8. Indemnification. The Town shall defend, hold harmless and indemnify Fleming against claims and causes of action that may arise in the performance of Fleming's duties for the Town in accordance with the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended. Fleming shall not, however, be indemnified for any act or omission that is willful and wanton as those terms are defined in the Colorado Governmental Immunity Act.

9. Miscellaneous.

a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

c. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

h. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other; provided that Fleming's heirs shall be entitled to enforce this Agreement should Fleming become legally incapacitated or deceased, as applicable and provided by law.

i. *Governmental Immunity.* The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended (the "Act"), or otherwise available to the Town and its officers, attorneys or employees. In addition, while engaged in the performance of services under this Agreement and within the scope of his authority, Fleming shall be entitled to assert immunity under the Act.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Employee

Malcolm Fleming

Job Description

See Erie Home Rule Charter Article 8.01.

Sixth Amended Employment Agreement

This Sixth Amended Employment Agreement (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (the "Town"), and Malcolm Fleming, an individual with an address of 1115 West Enclave Circle, Louisville, CO 80027 ("Fleming") (each a "Party" and collectively, the "Parties").

Whereas, on January 8, 2019, the Parties entered into an Employment Agreement to outline the terms under which Fleming would accept employment as the Town Manager (the "Employment Agreement");

Whereas, on February 25, 2020, January 26, 2021, March 8, 2022, January 24, 2023, and February 13, 2024, the Parties amended the Employment Agreement; and

Whereas, the Parties wish to amend the Employment Agreement again.

Now therefore, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Employment.** Pursuant to the terms of this Agreement, the Town agrees to employ Fleming as Town Manager, and Fleming accepts such employment. As the Town Manager, Fleming shall be responsible for the organization and efficient administration of all administrative departments of the Town, in accordance with applicable law and the job description attached hereto and incorporated herein by this reference. Though Fleming is an employee of the Town, Fleming shall not be subject to the Town's personnel manual, except for the determination and payment of benefits as set forth in Section 4. During the term of this Agreement, Fleming agrees to remain in the exclusive employ of the Town and neither to accept nor to become employed by any other employer. The term "employed" shall not be construed to include occasional teaching, writing, or consulting, as approved by the Town Council, performed on Fleming's time off with prior written approval of the Town Council.

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In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Employee

Malcolm Fleming

Job Description

See Erie Home Rule Charter Article 8.01.



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-380, **Version:** 1

SUBJECT:

Presentation of 2025 ICSC Award for Excellence in Community Advancement

DEPARTMENT: Economic Development

PRESENTER(S): Julian Jacquin, Director of Economic Development & TOEURA
Tyler Carlson, Evergreen Devco

TIME ESTIMATE: 5 minutes

FISCAL SUMMARY:

N/A

POLICY ISSUES:

This item has minimal policy implications.

STAFF RECOMMENDATION:

None

SUMMARY/KEY POINTS

None

BACKGROUND OF SUBJECT MATTER:

Erie staff, alongside Evergreen Devco, proudly accepted the 2025 ICSC Award for Excellence in Community Advancement, recognizing Nine Mile Corner at the 2025 ICSC show in Las Vegas. The project is a standout example of smart retail development and community-driven design in action.

"Nine Mile Corner exemplifies small-town brownfield redevelopment success in Erie, Colorado. The collaboration, which also included the Town of Erie Urban Renewal Authority, transformed a 45-acre site from a blighted property into a thriving retail center anchored by Lowe's Home Improvement and supermarket chain King Soopers, plus a 287-unit attainable multifamily community. The project utilized a metropolitan district and urban renewal area to issue \$17.7 million in tax-exempt public improvement bonds funded by tax increment financing, successfully addressing extraordinary infrastructure costs while delivering critical sales tax revenue and jobs to the community. Named for

its location exactly nine miles from Boulder, Colorado, Nine Mile Corner has accelerated development in the area by nearly 20 years, illustrating how strategic public financing can attract significant private investment in smaller communities.”

Additional Key Stakeholders

Architects and Engineers: G3 Architecture and Galloway & Company Engineering (retail center); and Kephart and HKS (multifamily)

General Contractors: Brinkmann Constructors, Waner Construction and Nexus Builders

Leasing Company: David, Hicks & Lampert Brokerage

Finance Company: D.A. Davidson

<https://www.icsc.com/news-and-views/icsc-exchange/5-transformative-public-private-partnerships-the-2025-icsc-excellence-in-community-advancement-award-winners>

Evergreen will attend the Jun. 10 Town Council meeting to jointly accept the award and provide remarks.

TOWN COUNCIL PRIORITY(S) ADDRESSED:

- Attractive Community Amenities
- Engaged and Diverse Community
- Prosperous Economy
- Well-Maintained Transportation Infrastructure
- Small Town Feel
- Safe and Healthy Community
- Effective Governance
- Environmentally Sustainable
- Fiscally Responsible

ATTACHMENT(S):

None



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-295, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Adopting the Town Neighborhood Speed Management Program

DEPARTMENT: Public Works

PRESENTER(S): Miguel Aguilar, Principal Transportation Planner

POLICY ISSUES:

The adopted Transportation & Mobility Plan recommends adopting a neighborhood speed management program. This aligns with the TMP's Safety and Equity values to establish a program where residents can provide feedback.

STAFF RECOMMENDATION:

Staff recommends adopting the Town of Erie Neighborhood Speed Management Program

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town staff, including the Police Department, receive many resident complaints about vehicles speeding on local and collector streets. To address the complaints, staff, along with a resident focus group, developed a Neighborhood Speed Management Program (NSMP). The program outlines steps residents need to take to submit speeding complaints and the process for staff to evaluate the complaint. Based on the evaluation and criteria, the complaint will be addressed appropriately.

The program is ready for execution and the application is ready to launch. The Town website was updated with information about the program and the link for residents to submit their application.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Attractive Community Amenities
- ✓ Engaged and Diverse Community
- ✓ Well-Maintained Transportation Infrastructure
- ✓ Small Town Feel
- ✓ Safe and Healthy Community
- ✓ Effective Governance

File #: 25-295, **Version:** 1

ATTACHMENT(S):

1. Resolution 25-082
2. Presentation June 2025
3. Presentation January 2024

**Town of Erie
Resolution No. 25-082**

**A Resolution of the Town Council of the Town of Erie Adopting the
Town of Erie Neighborhood Speed Management Program**

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to adopt the Town of Erie Neighborhood Speed Management Program.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Town of Erie Neighborhood Speed Management Program is hereby adopted in the form attached hereto.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Transportation Update

Neighborhood Speed Management Program

Town Council

Miguel Aguilar, Principal Transportation Planner

John Firouzi, Transportation & Mobility Manager

June 10, 2025

Neighborhood Speed Management Program

How We Got Here

- Numerous resident reports of speeding on roadways
- Other agencies invested in managing these reports
- Erie Staff researched developing a NSMP



Development of Program

- Established a Focus Group
- Included Police, Transportation, Engineering
- Consultant for development and management
- Engineering Standards included traffic calming for program





Neighborhood Speed Management Program

Program Criteria

- More than 50% of land use must be residential, park, or school
- Local or collector roads only
- Petition with 10 households or 25% of block households
- Average daily traffic volume of 500
- 85th percentile speed at least 5 mph over limit

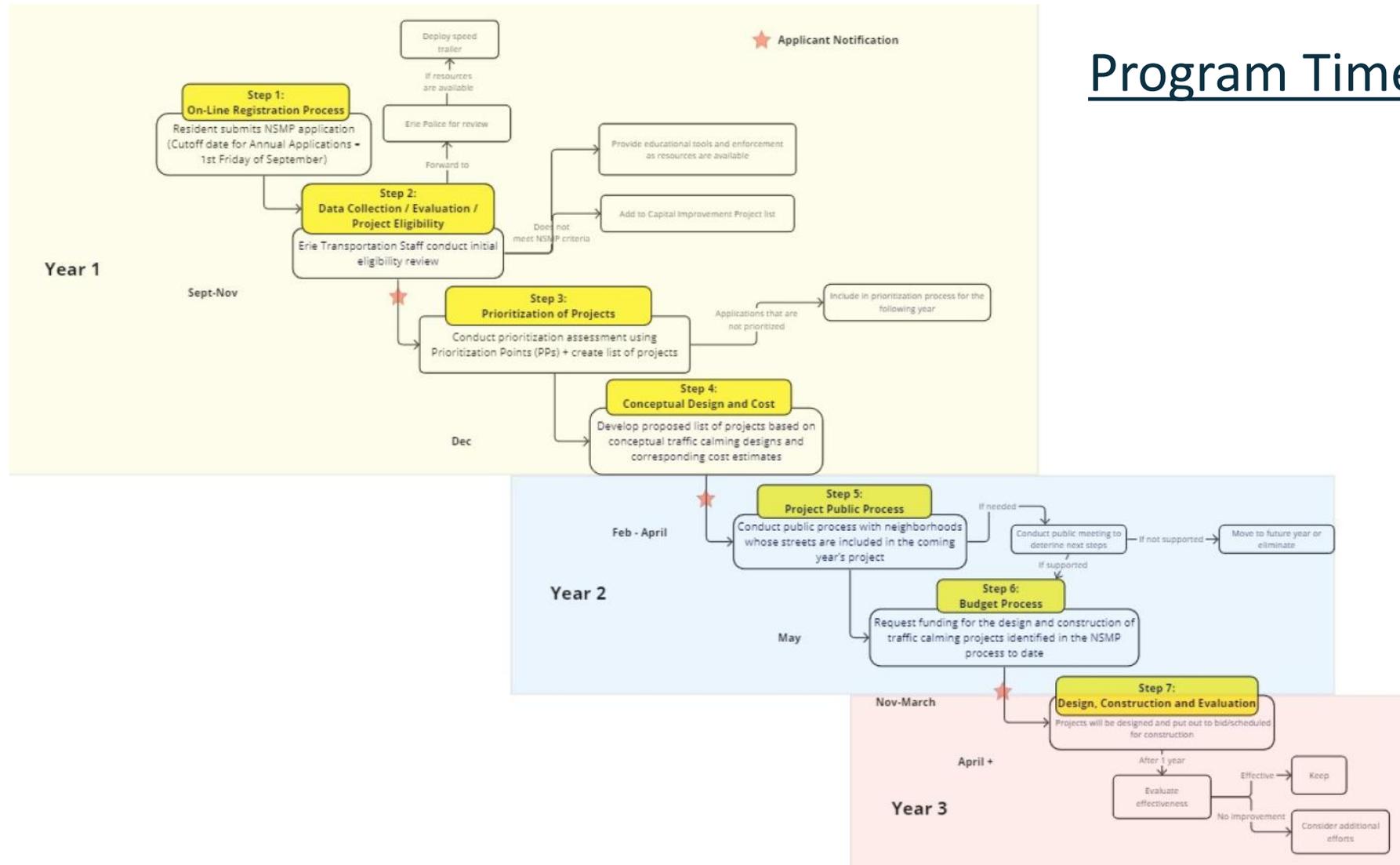
Evaluation

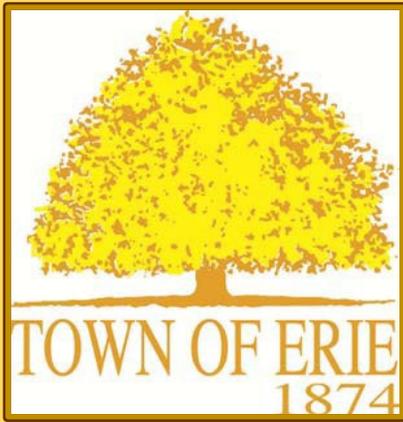
- Indication of vehicle-pedestrian conflicts
- History of speed-related crashes
- Proximity to key pedestrian areas
- Inclusion in the Transportation Mobility Plan
- Existing pedestrian and bike facilities



Neighborhood Speed Management Program

Program Timeline





TOWN OF ERIE

NEIGHBORHOOD SPEED MANAGEMENT PROGRAM

A Summary of Speed Calming Policy and Neighborhood Speed Management Strategies

January 2024





For more information, please contact:



Transportation Division

645 Holbrook Street

Erie, Colorado 80516

303-926-2700



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APPENDIX

Appendix A – Developing Erie’s NSMP: A summary of the Peer Review process, the work with the community focus Group and the key findings.

Appendix B - Sample NSMP resident application form

Appendix C - Blank NSMP petition sheet

Appendix D – Traffic calming measures – Summary of considerations

Appendix E - Detailed summary sheets for traffic calming devices to be used in Erie

Appendix F – Erie’s NSMP Project Timeline

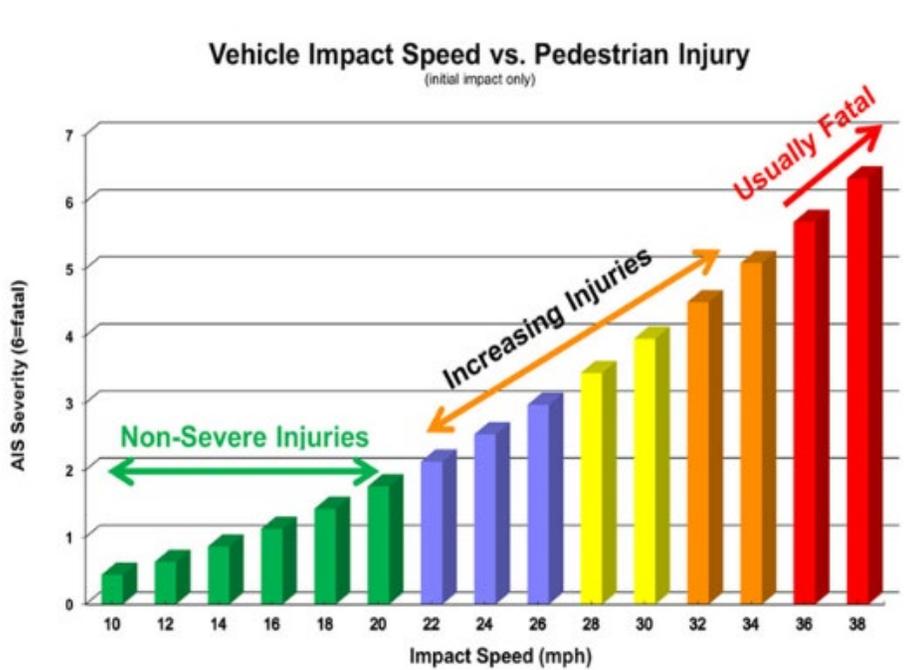
Appendix G – Erie’s NSMP implementation Flow Chart

EXECUTIVE SUMMARY

The speed at which vehicles travel can significantly impact the severity of crashes. One of the most important goals of any community is providing safety and protecting residents from violent injury and death. The Town of Erie’s Neighborhood Speed Management Program (NSMP) is an integrated system of codified policies which allocate resources and apply a combination of Education, Enforcement, Engineering and Evaluation to mitigate the effects of speeding traffic, while considering both Equity and Emergency Response. The NSMP is part of the Town’s commitment to providing transportation safety and neighborhood livability/quality of life.

The figure below from the U.S. Department of Transportation (USDOT) Federal Highway Administration (FHWA) Speed Management Safety website visually shows the relationship between motor vehicle speed and the potential for pedestrians struck to suffer severe injury or death. According to this FHWA website, a person struck by a motor vehicle traveling at a speed of 20 miles per hour or less is not typically permanently injured, while a person struck by a motor vehicle traveling at a speed of 36 miles per hour or greater will often be fatally injured.

One of the benefits of appropriate use of NSMP measures will be a reduction in vehicle speed on residential streets. On these neighborhood streets there is a greater expectation of people walking and biking in the roadway where people are also driving. Lower speeds can also be an encouragement to people in the community who want to walk or bicycle as a mode of transportation and need that to include their neighborhood streets.



Source: USDOT FHWA Speed Management Safety Website



Town staff will use the NSMP to work collaboratively with residents to address safety concerns about speeding traffic in their neighborhoods. The use of traffic calming and the selection of traffic calming measures will require resident support and will be influenced by resident feedback. The Town will decide the level of funding to be allocated to the program each year in the budget process and Town staff will use these resources to evaluate concerns, use NSMP tools, construct mitigation and assess the effectiveness of the program actions.

This NSMP document outlines the following program components in 11 distinct sections:

- ❖ Section 1.0: Terminology and definitions of key terms used in the document.
- ❖ Section 2.0: A Definition of “Traffic Calming” and how it pertains to the Town of Erie.
- ❖ Section 3.0: Specific external (public) and internal (town staff) “Goals” for the NSMP.
- ❖ Section 4.0: The six E components of the NSMP.
- ❖ Section 5.0: How projects are identified and how a Town Resident can request traffic calming.
- ❖ Section 6.0: Eligibility for traffic calming on streets and Prioritization of potential projects.
- ❖ Section 7.0: The Toolkit of Engineering Measures (traffic calming) to be used in the NSMP.
- ❖ Section 8.0: The NSMP Timeline and Program Implementation.
- ❖ Section 9.0: NSMP Project Funding
- ❖ Section 10.0: Additional NSMP policies

Erie’s NSMP was developed following a Peer Review of existing traffic calming installation programs in fourteen U.S. Towns and Cities. A Community Focus Group of residents was assembled, and Town staff worked with the focus group to obtain community feedback on several key NSMP policy issues. The policies outlined in this document are significantly influenced by the findings of the Peer Review effort and the feedback received from the Community Focus Group. A summary of the communities surveyed, the key findings obtained from the Peer Review work effort and the minutes of each Community Focus Group meeting can be found in **Appendix A**.

The NSMP is administered by the Town of Erie’s Transportation Division and residents can contact the program’s administrator at (303)-926-2700 with any questions.



1.0 TERMINOLOGY

This section includes the definitions of some of the common technical terms used in this document.

Arterial Roadway - The primary function of arterial roadways is the movement of traffic. Arterial roadways collect traffic from collector roadways and other arterial roadways. Arterial roadways are often “Designated Emergency Response Routes” for emergency services.

Average Daily Traffic (ADT) - The amount of vehicular traffic that crosses an imaginary line across a roadway in a 24-hour period. Often derived from the average of several days of data collection. ADT information typically includes both directions of vehicle travel (if on a two-way street).

Block – A segment of roadway between two intersections. For the purposes of this program, the area being identified for a potential NSMP project. The town may choose to break up especially large blocks into 1,000 foot segments.

Capital Improvement Project - Town of Erie projects that often involve substantial changes to the infrastructure and may require more significant public process with the community. Often these projects require external funding due to their cost.

Center Median - A median treatment installed between two directional travel lanes which allows people crossing the street to have a refuge between directions of travel. This allows pedestrians to break up the crossing and only be concerned about gaps in traffic for one direction at a time.

Collector Roadway - A collector roadway connects and moves traffic between local roadways and arterial roadways. Collectors generally have more traffic and a higher speed limit than local roadways but lower traffic and speed limit than arterial roadways.

Designated Emergency Response Route - A group of roadways which identify the fastest, most efficient and most often used routes for emergency response vehicles (Police, Fire and Ambulance). Careful consideration is given to the use of Traffic Calming on Emergency Response Routes as these devices can impact emergency response times.

Functional Classification - A hierarchy of street designation for mobility and access. Higher mobility streets such as arterials tend to have less access function. Local neighborhood streets have numerous driveways and cross streets, resulting in lower mobility but greater access function.



Local Roadway - A street that is primarily used to provide access to the properties bordering it. Roadways with predominantly residential land use may be called Local Neighborhood Streets.

Mobile Speed Display Trailers - Mobile electronic devices mounted on a trailer which use radar to determine an approaching motor vehicle speed and display this speed alongside the posted speed limit. Some devices can display other messages at preset thresholds such as “Slow Down” or “Speed Kills”. Some devices can also display flashing lights which mimic police vehicles to encourage drivers to slow down.

Percentile Speed - The speed at which the percentage of the traffic observed is traveling at or below. The 85th percentile speed is the speed at which 85% of the traffic on the roadway is traveling at or below. The extent to which this speed is greater than the posted speed limit on a roadway is generally used as an indicator of speeding.

Private Street - A street within the Town of Erie which is not owned by the town and provides access to one or more private properties. Public easements may allow public access to the roadway but they are maintained by the owner of the roadway.

Public Roadway - A roadway open to the public but under the jurisdiction of and maintained by a governing agency and for the purposes of this program the Town of Erie.

Speed Cushion - A parabolic vertical traffic calming measure used to slow traffic speeds on low volume, low speed roadways. These measures are lower in cost and effective at mitigating speed to 20-25 mph. They are less impactful to some emergency response vehicles because the design includes gaps wide enough for larger vehicles like Fire Engines to pass through without going over the vertical elements. See Section 8.0 for additional information.

Speed Hump - A parabolic vertical traffic calming measure used to slow traffic speeds on low volume, low speed roadways. These measures are lower in cost and effective at mitigating speed to 20-25 mph but are very impactful to emergency response vehicles.

Speed Related Crashes – A category of crash for which the speed of traffic played a significant role in the occurrence or severity of the crash. For the purposes of this program these crashes are limited to those which have a serious injury or fatal outcome, as those are the crashes for which speed data will likely be available.

Speed Table - A trapezoidal vertical traffic calming measure used to slow traffic speeds on low to mid-volume roadways and applicable on speed limits up to 35 mph. Speed tables are often used in conjunction with center medians to create a safe and efficient crossing treatment. Speed tables are very impactful to emergency response vehicles.



Traffic Circle - A circular raised median in the center of an intersection, around which traffic circulates in a counterclockwise direction. Traffic circles provide horizontal deflection which slows motor vehicle traffic passing through it. Traffic circles create less impact to emergency response than other traffic calming devices but are more costly to install and maintain.

2.0 TRAFFIC CALMING DEFINITION

There are many definitions for “Traffic Calming” in different reference materials. However, one of the most holistic definitions can be found on the USDOT FHWA Speed Management Safety website.

The primary purpose of traffic calming is to support the livability and vitality of residential and commercial areas through improvements in non-motorist safety, mobility, and comfort. These objectives are typically achieved by reducing vehicle speeds or volumes on a single street or a street network. Traffic calming measures consist of horizontal, vertical, lane narrowing, roadside, and other features that use self-enforcing physical or psycho-perception means to produce the desired effects.

Source: USDOT FHWA Speed Management Safety Website

In summary, traffic calming projects reduce automobile speeds, through the use of physical measures to improve quality of life and neighborhood livability, increase transportation safety and enhance comfort for people walking and bicycling. The most important component is that they are a persistent and self-enforcing way to reduce speeding. For the purposes of the Town of Erie’s NSMP, traffic calming projects will only be constructed on local and collector public roadways with a majority of the adjacent land use being residential.

3.0 PROGRAM GOALS

The Town of Erie’s NSMP has developed several program goals. The primary goals are external and focus on resident access to the program and the benefit that residents will receive through the program. Other secondary goals are internal and consider the best way for the Town of Erie to implement the program efficiently and effectively. These goals were considered in the development of program policy and Town staff should consider these goals when implementing the NSMP and when designing and implementing traffic calming projects.



The following external and internal goals have been established for the NSMP:

“External” Goals	
Speed & Safety	Streets are safe and pleasant where crashes do not occur and people do not speed
Quality of Life	People feel safe to walk across the street, to let their kids play safely in their yards, and to walk and bike through neighborhoods
Data	Erie uses data to prioritize resources
Emergency Response	Medical and fire response are prioritized so that impacts to emergency response are minimized or avoided
Community Input	Community members are involved in contributing to the policy decisions for speed mitigation in their neighborhood and the process is clear and transparent
Equity	The program is designed to encourage any Erie resident to inquire about speeding concerns and have equitable access to the program. Program priorities will be determined solely by the Town from an equity and data-driven perspective.
“Internal” Goals	
Collaborate with other city projects	There is collaboration between this program and other Town programs and projects to maximize efficiency and use of the Town's resources
Maintenance	The program will prioritize the ability to conduct effective snow removal; street operations; and general maintenance of the mitigation tools
Implementable & Scalable	The program will be implemented using the town's available resources, such as staff and budget, in a manner that can be sustained over time as the town increases in size
Prioritized Safety Funding	The program will be resourced and funded in a prioritized manner with other safety programs and initiatives of the Town of Erie



4.0 THE SIX E'S OF ERIE'S NSMP

There are many important components to a successful speed management program. Some of the most important components are categorized as the “E’s of Traffic Calming”. The Town of Erie’s NSMP will include the following six E’s as components of the program:

- ✧ Education
- ✧ Enforcement
- ✧ Engineering
- ✧ Equity
- ✧ Evaluation
- ✧ Emergency Response

Any NSMP application from a resident which is submitted to Erie’s Transportation Division will be forwarded to the Erie Police Department. As resources allow, the Erie Police Department will deploy their mobile speed display trailers onto application roadways to provide **education** to the driving public, to discourage inadvertent speeding and to convey that residents are concerned about speeding in their neighborhood. This educational tool may be supplemented, as found to be warranted and as resources allow, by a Police presence on these roadways. Police can provide both **education** and **enforcement** on the application roadways through the use of a combination of warning tickets and issued tickets for speeding. Additional **education** about speeding concerns will be provided through the use of Yard signs provided by the town and the allowance for residents to create their own signs with respectful and appropriate messaging.

It is not expected that **education** and **enforcement** will eliminate speeding on these roadways, however it is likely that these tools will result in some mitigation of speeding. It will also serve as notice to drivers that there are community concerns about speeding on these roadways, which may lead to more aggressive engineering tools (traffic calming).

Should a roadway qualify for **engineering** and should the residents living on the roadway generally support this engineering approach, then traffic calming will be designed and constructed as funding is made available through the budget process. It is acknowledged that timely **emergency response** is a critical function of government and the design of all traffic calming in the Town of Erie will be done in a way that balances the cost and effectiveness of the traffic calming with any impacts to **emergency response**.

Once traffic calming has been in place for a minimum of one year, these measures will receive an **evaluation** of effectiveness, which will include speed (where speeds reduced) and volume (what were the impacts of diverted traffic). Should **evaluation** find that the traffic calming did not significantly mitigate speeding on the application roadway then the town should consider additional traffic calming efforts as part of a future project.

Access to all components of the NSMP will occur with **equity** in mind. It should be clear to residents seeking assistance from the NSMP that who they are; where they live; and their access to financial resources are not to be factors in their access to the program.



5.0 PROJECT IDENTIFICATION

Some streets may be selected for Traffic Calming as part of other programmatic efforts by the Town, but it is anticipated that the majority of projects will be initiated from contact by residents. Concerns about speeding traffic can be made by any resident, neighborhood group or homeowner's association using the on-line registration on the Town's NSMP website. The information required from an applicant is the following:

- ✧ Name of Applicant.
- ✧ Address of Resident.
- ✧ Contact information (phone number and/or email).
- ✧ The street name and block(s) where there are speeding concerns.
- ✧ A petition with adequate signatures (10 households or 25% of households per block).
- ✧ A summation of the speeding concerns and any specific requests for action.
- ✧ Whether the applicant is representing a group of residents, a neighborhood association or a homeowner's association.

Upon receipt of a complete application, the applicant should receive an automated response from the Town confirming receipt. Town staff will immediately forward the application to the Erie Police Department so that they can begin Education and Enforcement measures, as their resources allow. Town staff will also make the applicant aware of the opportunity to obtain Yard signs for deployment by residents in their yards. Town staff will also undertake an assessment of the request to determine whether the roadway is eligible for physical mitigation. A sample application form and a blank petition form are provided in **Appendix B** and **Appendix C**.

Upon receipt of an application, Town staff will develop logical project boundaries that will address the speeding concerns and will consider potential traffic diversion to other streets. This may include expanding the project area to include streets which have not been petitioned.

All successful applications will be assessed by Town staff to determine whether the traffic calming needed for the project can be addressed through the limited resources of the NSMP or whether it needs to be considered a Capital Project. Projects which are impacting designated emergency response routes; have large amounts of diverted traffic onto similar or lower classification streets; have relatively high costs (>\$20K per project) or for any other reason may require more substantial public process and funding than the NSMP can provide will be classified as future Capital Improvement Projects. These projects will pursue design, public process and funding through the Capital Improvement Project process and will be prioritized against all other Capital Improvement Projects including other Town safety projects.

The purpose of the NSMP is to address speeding traffic on residential streets and not to address other transportation issues such as high traffic volumes, traffic signal operations, pedestrian crossing treatments or other non-speeding related transportation issues. Elements of an NSMP project may provide additional transportation benefits, but it is not the purpose of the NSMP to design projects with those benefits as goals. Applications requesting these types of improvements will be forwarded to the appropriate Town staff contact for response.



6.0 PROJECT ELIGIBILITY AND PRIORITIZATION

Eligibility for NSMP projects:

The staff and financial resources available for the NSMP are limited and it is necessary that they be used only when they are responding to a serious speeding issue and in a prioritized manner. All applications which successfully move through the “Project Identification” phase of the NSMP will be screened for eligibility. The following eligibility criteria are required for a roadway to qualify for traffic calming through the NSMP:

- ✧ The roadway must be entirely within the Town of Erie. The NSMP will not pursue traffic calming projects in which any part of the project area is outside the town’s boundaries.
- ✧ More than 50% of the land-use adjacent to the project area roadway(s) should be designated as residential, public park or owned by a school (public or private). NSMP resources should be focused on neighborhood streets.
- ✧ The project area roadway(s) must be designated as local roadways or collector roadways. Arterials and highways are used significantly by emergency responders and typically have high enough speeds to eliminate most traffic calming from consideration.
- ✧ As part of the on-line application form, the applicant (a resident of the block) must secure and provide signatures from ten households or from 25% of the households on the block, for each requested block of the project area roadway(s). This is to ensure that there is a baseline level of support for traffic calming within households on the block.
- ✧ Following data collection and evaluation, the project area roadway(s) must have an 85th Percentile Speed of 5 mph greater than the speed limit or higher.
- ✧ Following data collection and evaluation, the project area roadway(s) must have an average daily traffic volume of 500 vehicles per day or greater.

All eligible NSMP traffic calming projects will undergo a prioritization process so that Town staff can determine an appropriate budgetary request for the following construction season and applicants can know whether funding is being requested for their project in the coming construction season. NSMP projects which are not prioritized for funding in a given year will be added to the following years NSMP projects and prioritized accordingly. Each year the Town will construct as many of the prioritized projects as funding allows.

Prioritization Process:

It is likely that there will be times when the number of eligible NSMP projects and their associated costs will exceed the resources available to the NSMP. In these circumstances, it is important that eligible NSMP projects be prioritized for implementation. This will allow the highest priority projects to be constructed, while rolling projects that cannot be funded into the prioritization process for the next year.



NSMP projects will be prioritized based on the following criteria:

- ✧ The 85th Percentile speed of traffic and how much it exceeds the roadway speed limit.
- ✧ The traffic volume on the roadway (the potential for conflict with motor vehicles).
- ✧ The occurrence of any “speed related” crashes on the roadway.
- ✧ Whether there are key pedestrian land use generators such as schools, places of worship, public parks, public playgrounds, recreation or senior centers or neighborhood commercial areas within one block of the project roadway.
- ✧ Whether a project has been identified for the petitioned block in the Town of Erie’s Transportation Master Plan (TMP).
- ✧ The presence of and type of sidewalk, pathway and/or bicycle facilities present on the project roadway, as well as the presence of signed and marked crosswalks.

Applications will be prioritized according to the highest number of “**Prioritization Points**” (PPs) accumulated. A prioritized list of projects will be generated for each year of applications. The following scoring process will be used to prioritize eligible NSMP projects:

Prioritization Criteria	Scoring	Notes
Speed of Traffic	+3 PPs for each MPH that the 85 th Percentile speed is higher than the speed limit	Round any decimal up. No maximum scoring.
Traffic Volume	+1 PP for each 500 vehicles per day on roadway	Round any decimal up. Score a maximum of +10 PPs for this scoring category.
Speed related Crashes	+5 PPs for each “Speed Related Crash” on roadway	No maximum scoring.
Nearby Pedestrian Generators	+2 PPs for each generator within one block of roadway	No maximum scoring.
Crossing activity	+1 PP for each signed and marked crosswalk on roadway	No maximum scoring.
TMP identified Project	+2 PPs for having a project located on the block identified in the current Erie TMP.	Score a maximum of +2 PPs for this scoring category.
Pedestrian Facilities	+2 PPs for no sidewalk on either or both sides of roadway	Score a maximum of +2 PPs for this scoring category.
	+1 PP for a detached sidewalk on either side of roadway	
	+0 PP for detached sidewalks on both sides of the roadway	
Bicycle Facilities	+2 PPs if on-street bicycle facilities are less than federal guidelines would recommend.	Score a maximum of +2 PPs for this scoring category.



7.0 ENGINEERING (TRAFFIC CALMING) TOOLKIT

There are many types of traffic calming devices which have the potential to slow traffic on residential streets. Town staff has reviewed potential devices, determined which devices are appropriate and desirable for use in the NSMP and these devices constitute the “Toolbox of traffic calming treatments” that can be used in NSMP projects.

A summary table of all toolbox treatments considered for Erie’s NSMP with pertinent information about each device is provided in **Appendix D**. This is a comprehensive list of potential traffic calming devices and many would be appropriate only for capital projects. The table provides a rating for several fundamental categories that span from Very Good to Poor, or in some cases simply note “Benefit”. These assessments were determined using information provided on the USDOT FHWA Speed Management Safety Website, information from other jurisdictional programs as well as the engineering judgment of staff who have experience implementing and studying traffic calming. These are the categories:

Speed – This category is an assessment of how effective the traffic calming tool generally is in reducing speeds on residential roadways. A “Poor” rating is expected to have very little impact on motor vehicle speeds while a “Very Good” rating is expected to significantly impact speeding.

EMS – This category describes the level of impact that this traffic calming tool will likely have on emergency response. A “Poor” rating will have significant impact on emergency response, while a “Very Good” rating will either have little impact or the impact is easily avoidable.

Bikes and Peds – This category describes how well this traffic calming device provides benefit specifically to bicycles and pedestrians operating on the roadway. A “Poor” rating suggests some impact to people walking or riding a bicycle at the treatment, while a “Very Good” rating suggests that the treatment may be beneficial to people walking or riding a bicycle in the area.

Cost – This category describes the relative cost of implementing this traffic calming treatment per device. The costs are estimates and will vary over time due to inflation and other economic factors. The number of \$ symbols suggest the following costs:

\$ - A cost less than \$6,000.

\$\$ - A cost between \$6,000 and \$20,000.

\$\$\$ - A cost between \$20,000 and \$50,000.

\$\$\$\$ - A cost greater than \$50,000.

A separate and more detailed one-page summation for the specific traffic calming treatments planned for use in the Town of Erie’s NSMP (Median Islands, Speed Cushions and Traffic Circles) can also be found in **Appendix E**. These are the devices that the town would anticipate using for non-capital NSMP projects.



An ideal traffic calming tool would be highly effective at reducing speed, low in cost, have little to no impact on emergency response and support bicycle and pedestrian use of the roadway. Unfortunately, there are no traffic calming devices which fit this “Ideal” status and Town staff will have to balance each of these factors in developing appropriate traffic calming projects. It is anticipated that NSMP projects will use a combination of Median Islands, Speed Cushions and/or Traffic Circles, for traffic calming as these devices are effective, lower in cost and minimize impact to emergency response.

It is also desirable to have consistency with traffic calming devices in the community so that residents can quickly become accustomed to using them. Focusing on a limited number of traffic calming devices will provide that consistency.

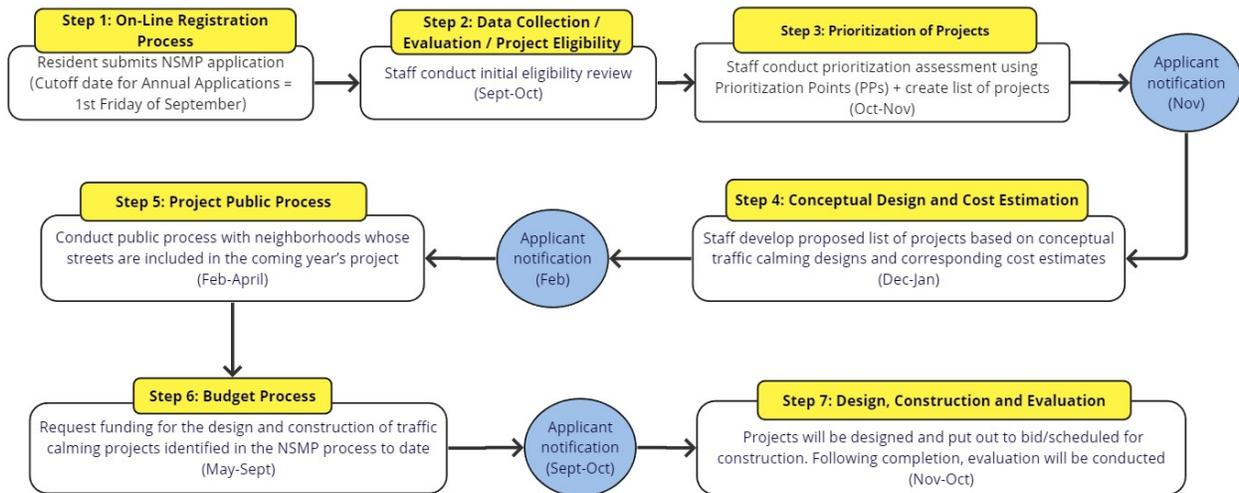
8.0 NSMP TIMELINE AND PROJECT IMPLEMENTATION

This section details the implementation process for the Town of Erie’s NSMP. The process is managed through a series of steps beginning with the completion of an on-line registration form (prior to the application deadline in any given year) and concluding with the construction of selected traffic calming devices and the evaluation of the mitigation’s effectiveness. Applications submitted prior to the deadline in any year will be evaluated and, if eligible, prioritized for potential traffic calming project funding in the next available budget process. Applications submitted after the deadline will be included in the following year’s evaluation and project development process.

A graphical timeline detailing all phases of an NSMP project can be found in **Appendix F**. It should be noted that the entire implementation process cycle, from application to final design and construction, takes approximately three years to complete.

In the first year, the program will be accepting and confirming applications, collecting and analyzing pertinent data and beginning conceptual design for potential projects. In the second year, the program will be conducting public process, modifying design based on feedback, creating cost estimates, prioritizing projects, submitting financial requests through the town’s budget process and beginning final design for projects approved through the budget process. In the third year, the program will be finishing final design, soliciting contracts and constructing the mitigation projects. A new cycle is expected with a new round of applications to begin the process each year so multiple NSMP process steps will be occurring concurrently for each year that Erie’s NSMP is operational.

The program steps for each cycle are detailed in this section. The following flow chart also describes the steps in each NSMP cycle. A more detailed graphic can be found in **Appendix G**.



Step 1

On-Line Registration Process

- a) The Town of Erie will accept applications on-line each year through the application deadline (first Friday of September each year). The application list for that year will include any application received before the deadline. A sample application form is provided in the Appendix.
- b) The applicant must provide contact information (through the on-line application) which will be used to contact them with information and process updates. Contact information will be verified and the if the applicant does not provide verified contact information, the application will be considered incomplete and will not move forward in the process.
- c) Each application will be reviewed to ensure that it meets the aforementioned initial “Eligibility” criteria. The applicant for any application which does not meet these criteria will be told their application is not eligible for an NSMP traffic calming project. They may still access educational tools and receive enforcement as resources allow. Incomplete applications can be resubmitted the following year.
- d) Each application which meets the initial “Eligibility” criteria will be processed for data collection and evaluation. The application will be forwarded to the Erie Police Department for their consideration of mobile speed display deployment and targeted officer speed enforcement.



Step 2

Data Collection / Evaluation / Project Eligibility

- a) Upon receipt of an application, town staff will initiate data collection and will use speed and volume data to help determine eligibility for a traffic calming project. Eligible applications will be evaluated and prioritized. The specific data collection needed for an NSMP application is outlined below:
- I. Speed and Volume data collected over a seven-day period (to include weekday and weekend data) on one or more locations representative of the speed and volume of the application roadway(s). Data obtained should include the average speed, 85th percentile Speed and average daily traffic (ADT) volume. This same data should also be collected on any roadways parallel to the project roadway which may receive diverted traffic as a result of traffic calming.
 - II. A review of the last five years of available crash data on the roadway, to document any crashes which engineering judgment suggest may have been mitigated by traffic calming treatments.
 - III. Documentation of key pedestrian land use generators such as schools, places of worship, public parks, public playgrounds, recreation or senior centers or neighborhood commercial areas within one block of the project roadway.
 - IV. Documentation of the adjacent pedestrian and bicycle facilities including:
 - Presence of sidewalk and if so, whether attached or detached.
 - Presence of one or more signed and marked crosswalks across the project roadway.
 - Presence of a bicycle facility and if so, whether it is a designed bike route, on-street bicycle lanes, buffered bike lanes or protected bike lanes.
- b) It should be noted that during this time period, data collection will also be occurring to evaluate projects that were implemented in the prior year. Data collection occurs for both evaluation of new projects and evaluation of success for projects constructed in the prior year.
- c) Applications which met initial “Eligibility” criteria but do not meet speed and/or volume criteria will not be eligible for a traffic calming project. Applicants with applications which do not meet these criteria will be contacted by Town staff and informed of that outcome. They may still have access to educational tools and receive enforcement. Applications which did meet all NSMP eligibility criteria will move on to the prioritization phase of the program.



Step 3

Prioritization of Projects

- a) The data collected for all eligible NSMP applications will be used to prioritize projects for each year. Each eligible NSMP application will tally a number of “Prioritization Points” (PPs) for each of the prioritization criteria and these tallies will be used to create a preliminary prioritized list of potential traffic calming projects.
- b) Town staff will review this list and consider whether there are any opportunities to collaborate with other planned projects or maintenance activities or if the scope of a project is likely to require a capital project to implement. These findings may change the prioritization. Applicants will be contacted and informed of the prioritization position of their application using their provided contact information.

Step 4

Conceptual Design and Cost Estimation

- a) During the months of December and January, Town staff will develop conceptual traffic calming designs and corresponding cost estimates for each application.
- b) Comparing the prioritized project cost estimates to an expectation of available funding, Town staff will develop a proposal which will include a prioritized group of projects to move forward through the upcoming Town of Erie’s Budget process.
- c) Applications which are not included in this group of projects will be included in the Prioritization process for the following year.
- d) The final list of projects moving in the budget process will be posted to the town’s website by the end of January. Town staff will inform applicants of their application status using their provided contact information.

Step 5

Project Public Process

- a) Public processes with neighborhoods whose streets are included in the coming year’s project package will begin in February. This process should be structured to conclude by the end of April, so that Town staff can begin preparing for the upcoming budget process.



- b) The public process will include a flyer sent to residents living on the blocks in which traffic calming is being proposed. Flyers will also be sent to residents living within one block of the project area. The flyers will detail the project proposal and provide information such as the types of traffic calming being proposed and their approximate location on the roadway. For larger projects, a conceptual drawing of the mitigation may be needed to convey detail clarity. The flyer should also include summations of the problem being solved including traffic volume, speed and any other factors that influenced the decision to recommend traffic calming on this roadway. Finally, the flyer should provide town staff contact information for residents to provide feedback on the proposal.
- c) It is expected that Town staff will receive feedback from the community on some projects. If Town staff determines that there is not a general consensus of support for a traffic calming project, they may include a public meeting in the process. This public meeting can include any or all projects for that year and should be structured so that there are conceptual drawings of the projects, and Town staff will be available to answer questions where these drawings are posted. Participants will be requested to submit their comments using a comment form.
- d) Town staff will create a summation of the comments received through all the public process steps and will use this information to determine the disposition of each traffic calming project being reviewed. This determination may result in the traffic calming project remaining the same; the project being redesigned, and cost estimated to reflect feedback from the community; the project being moved to a subsequent year; or the elimination of the project from consideration by the NSMP.
- e) Potential changes will be determined by the end of April. Any changes to the disposition of a traffic calming project will be posted to the town’s website. The Town staff will inform the applicants of any change to their project’s disposition using their provided contact information.

Step 6

Budget Process

- a) Town staff will need to prepare information for the budget process each year, which seeks to secure funding for the design and construction of traffic calming projects identified in the NSMP process to date. This will include standard (lower cost) NSMP traffic calming projects but may also include capital projects that have been generated through the NSMP process. It is expected that the NSMP generated capital projects will be prioritized for funding along with other capital projects identified by the Town of Erie.
- b) Town staff will use the month of May to prepare these materials and will participate in the budget allocation process throughout the summer and fall.



- c) A typical Town of Erie budget process concludes in November with the Town Council's adoption of the upcoming year's budget. At this time, Town staff will know how much funding they have received for the NSMP, and consequently which projects can be scheduled for final design and construction. NSMP Projects which did not receive funding will be rolled over into the following year and prioritized with the next round of project submissions.
- d) The list of the projects moving forward will be posted to the town's website by the end of January. Town staff will inform applicants of the funding outcome using their provided contact information.

Step 7

Design, Construction and Evaluation

- a) The final design of each approved project will begin late November, following the budget process. Projects will be designed and put out to bid/scheduled for construction over the following winter and spring months in preparation for the upcoming construction season. When a project is scheduled for construction, Town staff will contact the applicant to let them know the timeline of construction using their provided contact information.
- b) NSMP projects will be constructed during the construction season, generally between the months of April and October. Efforts will be made to ensure that construction in the vicinity of schools will occur during the summer when school is not in session.
- c) The traffic calming constructed through an NSMP project will be allowed to operate and function for approximately one year before evaluation of its effectiveness occurs. During the same time as new application data collection (September to October in each year), Town staff will collect travel speed and ADT volumes on the roadways which had traffic calming projects constructed the prior year and upon any roadways which may have been impacted by diverted traffic. The primary assessment of traffic calming effectiveness will be whether the 85th Percentile speed on the mitigated roadway was dropped to a value which would no longer qualify for NSMP mitigation. If a project's mitigation is determined to not be effective then the residents can reapply for additional NSMP mitigation.

Below is a list of key “town staff connections with the community” points within the NSMP process and the anticipated month in which this connection should occur. Town staff will need to determine which staff member(s) have these responsibilities.

Key outreach to applicants and updates to the town's website

- ✧ Applicants will be contacted following submittal of the online application. This is done to acknowledge receipt of the application and to inform the applicant whether their application meets the initial NSMP eligibility for the program. **This occurs in September each year.**
- ✧ Applicants will be contacted following the data collection and qualification process. This is done to let them know whether their roadway qualifies for mitigation through the data collection evaluation process. Prioritization of successful projects will also have been completed and



applicants will be told the prioritization status of their project. The town’s website will be updated to include a prioritized list of qualifying projects. **This occurs in November each year.**

- ✧ At the conclusion of conceptual design and preliminary cost estimating, applicants will be provided with a list of projects that are moving forward into the budget process. The website will be updated to include this list. **This occurs by the end of January each year.**
- ✧ Any project whose status changes as a result of the public outreach process will have that status change reflected on the town’s website and Town staff will inform the applicant of these changes. **This occurs in April of each year.**
- ✧ Following the adoption of the following years budget, the funding allocated to NSMP, and which projects are approved for design and construction will be known. The town’s website will be updated and any applicants whose projects were considered in the budget process will be contacted and informed of their status. **This occurs in September of each year.**
- ✧ Applicants will be contacted when their project is scheduled for construction. **This can occur anytime between October and March of each year.**

9.0 PROJECT FUNDING

The Town of Erie will fund NSMP traffic calming projects through an allocation in the town’s budget, adopted by the Town Council in the previous year. For equity reasons, the town will not ask or allow residents to pay for any portion of the construction of these traffic calming features, and the willingness to provide funding for traffic calming in one’s neighborhood will not be a factor in the prioritization of projects. Landscaping is a sometimes-desired component of a neighborhood traffic calming project that can be difficult for the town to manage over time. Town staff may allow residents to augment a traffic calming project with components of landscaping which they agree to maintain at their own expense.

The Town of Erie is growing in size and new neighborhood roadways are being constructed as part of the Town’s growth. In addition, new development traffic will use some existing neighborhood roadways. Consideration should be given to how traffic calming could be incorporated into new development proposals. Developers should be encouraged to mitigate existing speed issues on current town roadways and to ensure that speeds are mitigated on future roadways. If such mitigation is to be required of future developers, then the Town’s Design and Construction Standards should be updated.

NSMP projects may also be constructed through capital projects. The larger cost of these projects makes them potential candidates for state and federal grant funding. There are currently several safety related grant funding opportunities which exist in Colorado and NSMP funding may be available through these sources.



10.0 ADDITIONAL NSMP POLICIES

Use of traffic calming outside the context of the NSMP

Occasionally certain traffic calming devices will be installed as part of non-NSMP projects. This may be as a part of other Town of Erie Capital Projects or advanced through future development projects. Like the NSMP process, Town staff will involve the Police and Fire departments in the design phase of non-NSMP projects. NSMP goals including concerns about emergency response, will be a significant consideration of non-NSMP projects.

Temporary versus permanent mitigation approaches

Several traffic calming tools have the option to be implemented with more temporary features (such as paint and flexible posts) or with permanent features (curb and gutter). Temporary features usually have the value of being significantly lower in installation cost and allow the community to experience and assess the treatments. However, these devices are much less durable and sustainable over time and consequently have a much higher maintenance cost. They also take Town staff time to track and maintain and are usually considered much less aesthetically desirable than permanent traffic calming measures. As a result of these impacts, temporary treatments will not be used for non-capital project NSMP projects. Temporary devices may be used for projects assigned to the capital program on a case by case basis.

Traffic calming device removal or replacement

Engineering devices constructed through the NSMP will be reconstructed by the town through regular maintenance activities. Unless Town staff have identified a critical safety issue or maintenance issue, then the traffic calming constructed by the NSMP is not eligible for removal until after the evaluation of the devices has occurred and the town has been able to assess its value to the community. If residents want to have traffic calming removed from a roadway, they must follow a similar process to its original installation, including obtaining signatures from residents on the roadway and participation in a public process with residents who requested the traffic calming. The decision to retain or remove traffic calming will be made by the Town Council. If removal is required, it will occur as town resources are available (most often when the roadway is being resurfaced).

The role of the NSMP as part of the Town of Erie's larger transportation safety strategy

The slowing of speeding traffic on residential streets is valuable to the community for many reasons. However, it is understood that most crashes with a severe outcome do not occur on these types of streets and that the Town of Erie will also be allocating resources to identify and mitigate severe outcome crash trends across the community. These mitigation efforts can be found in the Transportation and Mobility Plan. The NSMP is one of several safety programs developed by the town and the resources allocated to the NSMP in any given year will depend upon the availability of funding, considering not just the NSMP but all community safety needs.



APPENDIX

Appendix A – Developing Erie’s NSMP: A summary of the Peer Review process, the work with the community focus Group and the key findings.

Appendix B - Sample NSMP resident application form

Appendix C - Blank NSMP petition sheet

Appendix D – Traffic calming measures – Summary of considerations

Appendix E - Detailed summary sheets for traffic calming devices to be used in Erie

Appendix F – Erie’s NSMP Project Timeline

Appendix G – Erie’s NSMP Implementation flow chart



Appendix A

Developing Erie’s NSMP

The Peer Review process, working with the community focus Group and key findings.

In 2022 the Town of Erie, in Partnership with the Fox Tuttle Transportation Group and Leadline Consulting (the Project Team) began the development of their Neighborhood Speed Management Plan (NSMP). One of the first steps was to research existing successful speed management programs to better understand the key components and important policy decisions for a successful program.

A Peer Review process was undertaken with 10 Front Range communities and 4 communities from elsewhere in the United States. Programs in the following communities were researched:

Boulder, Colorado	Superior, Colorado	Fort Collins, Colorado
Greeley, Colorado	Thornton, Colorado	Aspen Colorado
Broomfield, Colorado	Lakewood, Colorado	Colorado Springs, Colorado
Frederick, Colorado	Davis, California	Madison, Wisconsin
Austin, Texas	Albuquerque, New Mexico	

The project team also reached out to staff from Denver, Colorado and Cambridge, Massachusetts. Denver did not have a speed management program similar to the other communities and the project team was unable to make contact with staff from Cambridge.

Each community involved in the Peer Review had a speed management program and when possible, staff responsible for the program were interviewed about their program. The following information was obtained through the Peer Review process:

- ❖ What components of Education, Enforcement, Engineering, Evaluation and Equity are included in the community’s speed management program?
- ❖ Does the speed management program have specific goals or objectives?
- ❖ How are potential speed management projects identified?
- ❖ Are there limitations on where projects are considered in your community?
- ❖ Are there eligibility criteria for consideration of a project?
- ❖ Is prioritization of projects necessary and if so, how does prioritization occur?
- ❖ Is your program just about speed mitigation or are other types of improvement included?
- ❖ Are there limitations on what engineering treatments are used in the program?
- ❖ How are your mitigation programs funded?
- ❖ Would you consider your speed mitigation program to be effective at meeting its goals?

A considerable amount of information was gathered through the Peer Review process and the project team used this information to develop key policy choices for Erie’s NSMP. Key findings from the Peer Review work effort included the following:



1. Most communities established Goals as a part of their Policies and Procedures. Good goal themes were identified in the Peer Research and used to shape Erie’s NSMP goals.
2. A key policy question is whether we want the application process to be a part of the “screening process” for potential projects. Should petitioning be used to ensure that there is support in the neighborhood for a traffic calming application?
3. Another key policy question is whether a program has qualification criteria or if you handle resource limitations through prioritization. Common qualification and prioritization criteria are associated with data on speed, traffic volume and speed related crashes. There is a fundamental relationship between how the program is resourced, how easy it is to qualify for mitigation and whether you need a prioritization process.
4. Decide what traffic calming tools are appropriate for your community. Some are effective at speed reduction, while others are less effective but generally more acceptable to more people. Others focus on shifting traffic off of the project residential street and over to others.
5. There is a tendency to want to do a lot of public processes with these types of projects. However, the downside of this is that a lot of resources can go into public process and evaluation rather than the construction of mitigation. Try to balance your community’s need for process with the limited resources available to focus more on construction than planning.
6. Leverage internal coordination heavily. Consider street maintenance and capital projects in the timing and prioritization of speed management projects. This will show good stewardship and stretch your resources for all programs.
7. Policies need to consider and protect emergency response. There must be a balance between meeting the other NSMP goals and providing good emergency response to the community.

Following the Peer Review information gathering and evaluation, the town began to outreach about speed management to the community using the town website. A video was created and run on the website to develop interest in the program and information about the development of the NSMP was advertised. Through these efforts the town was able to develop a Community Focus Group (CFG), which included the Project Team, staff from the Police Department and ten volunteer Erie residents.

The CFG met on October 26th and November 16th to review the key findings and policy questions. Feedback from the CFG informed the project team’s development of the NSMP. The following are the meeting minutes from each meeting.

10/26 Focus Group Notes

Participants	Staff
Terry	Commander Mike
Katie	Chief Mathas <input type="checkbox"/>
Steve	Miguel
Tina	Jarod
Sandy	David
Mark K.	Margo
Erin	Bill

Meeting notes/key comments from participants

- Shared concerns of speed signs around town - desire to see more intentional placement along the streets
- Meadowlark school projects did not address all the sides of the school area - interest in looking at that location, and other schools, as part of NSMP
- Participants were interested in what assets the town has to analyze data
 - Erie staff discussed how data based decisions are made. The group noted that data based decision making would be important in an NSMP
- Erin and Mark asked how the NSMP can inform proactive and future planning projects. Given the rate of development in Erie, the group wanted to understand how much control the town has over individual developers
 - David reminded the group of upcoming planning projects that, if adopted, can influence how developers and future neighborhood streets are built.
 - Miguel explained the implications of an upcoming ballot measure that considers moving Erie from Statutory Government to Home Rule, allowing for speed limits to be reduced
- Several members of the group reiterated their desire to develop a NSMP because they thought there was an opportunity to change behaviors close to people's homes. See this program as an opportunity to make an impact for their neighbors and neighborhoods since there is already law enforcement monitoring the larger roads and arteries
- The group discussed that much of the concerns they have are not just about their neighbors or residents but more so about the increased amount of delivery drivers, ubers, etc. that are now frequenting neighborhood roads
- Group agreed to proceed with the development of a NSMP for Erie





Notes from Focus Group #2

Thursday, Nov 16, 2023

5-7pm

Attendees:

Participants:

- Terry
- Bob
- Katie
- Steve
- Rob
- Tina
- Sandy
- Mark K
- Erin M

Staff:

- Jarod
- Miguel
- David

<p>1. What input do you have on the goals that have been developed for Erie's NSMP?</p>	<ul style="list-style-type: none"> • The goals feel reactive. How can we better reflect that there is a program in place, it's not just going to react to what the community requests; is there a way to have a proactive component? - Zoning, future planning, aligning goals with future development plans • Should direct law enforcement intervention be included in the goals? • See Steve's comments on printout • Revisit the vision-zero goal. It is not defined in the goals themselves so without previous explanation, how would people know what this means? • Vision zero goal references other safety measures - too vague, consider making more specific
<p>2. What is your feedback on the components reviewed: education, enforcement, equity and evaluation?</p>	<ul style="list-style-type: none"> • Include engineering • Evaluation is very important; willingness to change it if it isn't working • All important as long as everyone understands the level of importance and effectiveness • Trash can signs - depending on where you live in which town, those signs are a signal for people to take issue with it - consider if the tools prompt behaviors that you don't want • Focus money on educational tools that fit within HOA rules and are cost-effective • Group liked yard signs - people saw it, read it and actually hit the breaks





	<ul style="list-style-type: none"> ● Is there an equivalent to a neighborhood watch sign that identifies which areas are part of the program or are communities that care about slowing drivers down?
<p>3. How should Erie identify projects?</p>	<ul style="list-style-type: none"> ● Is the requirement to petition in itself an equity issue? ● If the problem area goes between neighborhoods, how could that impact petitioning? ● Petitioning would be impacted based on where houses are located ● Yes, petitions should be required but it would need to be conditional and based on equity. ● The permitting allows the responsibility to shift from the government's responsibility and puts the onus on the citizens to manage the problem ● Setting equitable criteria ● Issues with cut-off dates because it makes it inequitable ● Cut-off date/schedule needs to be more than just timeline - manage prioritization on rolling basis ● Don't call out cut-off date; keep that internal because it will make community members upset ● DAVID: It is important for community to understand that things need to be done in cycles around budgeting timelines, evaluations ● Build a process in an agile fashion ● Determine a triage process to sift incoming complaints/requests to the right place ● Identification needs to be data driven ● Where do people give feedback, telling people where to go? ● What would be the protocol in place to make sure that information gets to the right person? ● What is the documentation/tracking of the requests - application or petition? ● Share information/requests between law enforcement and city staff ● The intake process needs to be accessible to people who speak other languages ● Make the reporting process more organized via a phone line, social media, etc. - Traffic hotline? ● Most agreed they would go online first, then call the town, call the police, call traffic engineering directly - build protocols to ensure it gets to the right people ● Centralized place to go - everyone filtered to the same place
<p>4. What eligibility criteria should Erie's NSMP establish? 5. Does Erie need to have a prioritization process to determine project priority?</p>	<ul style="list-style-type: none"> ● Design of the roadway should be a pre-qualifier - traffic problem is different based on the type of street design ● Look at traffic volume and range relative to where it is ● The number of crosswalks could be included in prioritization factor ● No qualification criteria off the bat, consider re-visiting after program is established ● Prioritization should be anchored back to the goals - lean into goals in terms of setting priorities ● Steve disagrees - From day 1, there needs to be some criteria (quantifiable data) to quality



	<ul style="list-style-type: none"> • Does the outcome of the investigation trigger then a series of criteria or prioritization? • Crashes could inform prioritization but not qualification • Have some set of criteria that provides clarification about how it gets decided - share the evaluation and feedback
6. Should Erie's NSMP have location based limitations?	<ul style="list-style-type: none"> • How is the funding allocated? That will impact if different locations need to be set aside for each category. The location should be aligned with how transportation/street funding is separated • How is the city going to fund this? Will the town have a perpetual budget that rolls over? If the money isn't used for the program, will money get reallocated? • Limitations should go away - the type of solution/tool should depends on the type of road way • No interest in taking resources from arterial roadways to put it into NSMP; keep it separate • Are collector roadways included in this program? Erin thinks they should be • When a complaint is raised, the individual is told which avenue it is going to be addressed by. IE - this is not part of the NSMP • Consider non-engineering mitigations to consider outside of this program
7. What engineering devices should be available?	<ul style="list-style-type: none"> • Are speed dips a tool that can be used? • Liked the idea of refuge islands, mini roundabouts, raised medians • Why are there not more "stop" paint on the roads • Combine speed mitigation with other goals • How does the program build consistency with the tools used? Recommend that there is a concise list of options that people can get used to and get to know • Needs to be aesthetically pleasing • This needs to be connected to the process - eligibility, criteria, then what type - if, than • How is the public baked into the process of identifying the solution - most commonly, the neighborhoods • How is maintenance incorporated?
8. How should Erie's NSMP be funded?	<ul style="list-style-type: none"> • General consensus that developers should pay • Agree that residents should not pay • How to make sure that developers pay for it equally? If developers pay for mitigation, will that transfer to the homeowners? Is that equitable? • Developers should be investing in infrastructure (infrastructure before development)



Unrelated questions from the group	<ul style="list-style-type: none">• What quantifiable data does the town have that can validate the need for this program?• How does road design influence speed problems and management?• How long are data collection tools in place?• A common theme of other programs were that it was based on a reactive response to crashes - NOT preferable for this program• What are the counters set up to do?• There needs to be a tier of evaluation to determine what type• Will the board vote on the program details vs just a concept



APPENDIX B - Erie NSMP Sample Application Form

Name of Applicant: _____

Address of Resident: _____

Contact information (how do you want to be contacted?)

Phone number: _____

Email Address: _____

The street name and block(s) where there are speeding concerns:

Please provide a summation of speeding concerns and specific requests for action:

Are you representing a group of residents, a neighborhood association or a homeowner’s association? If so, please specify:

Group of residents

Neighborhood Association

Home Owners Association

Have you provided a neighborhood petition (5 households per block)?

Yes

No

For more information contact: Planning and Development Department | 645 Holbrook St. | Erie, CO 80516 | 303-926-2700



APPENDIX B - Erie NSMP Sample Application Form

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No

For more information contact: Planning and Development Department | 645 Holbrook St. | Erie, CO 80516 | 303-926-2700

Traffic Control Effectiveness by Strategy / Treatment



TRAFFIC MANAGEMENT STRATEGY / TREATMENT	SPEED 	EMS 	BIKES & PEDS 	COST \$	OTHER IMPACTS
VERTICAL ELEMENTS					
Speed Hump				\$	
Speed Cushion				\$	
Raised Crossing				\$\$	Drainage and crosswalk considerations
Raised Intersection				\$\$\$\$	Drainage, Utilities, and crosswalk considerations
HORIZONTAL ELEMENTS					
Traffic Circle				\$\$	Maintenance
Curb Extension				\$\$ / \$\$\$	Drainage
Chicane				\$\$\$	Drainage, possible Maintenance
Choker				\$\$ / \$\$\$	Drainage, possible Maintenance
Lateral Shift				\$\$	Drainage, Utilities, possible Maintenance
Median Island				\$\$\$	Median Maintenance
On-Street Parking				\$\$	
Mini Roundabout				\$\$\$\$	Drainage, Utilities, Maintenance
Realigned Intersection				\$\$\$\$	Right-of-Way
VISUAL ELEMENTS					
Electronic Speed Display				\$\$	Maintenance and device failure
Striping				\$	
Roadside & Median Landscaping				\$\$\$	Median Maintenance

Traffic Control Effectiveness by Strategy / Treatment



TRAFFIC MANAGEMENT STRATEGY / TREATMENT	SPEED 	EMS 	BIKES & PEDS 	COST \$	OTHER IMPACTS
OTHER TOOLS					
Roundabout				\$\$\$\$\$	Drainage, Utilities, Right-of-Way
Road Diet				\$\$\$\$	
Speed Limit Signage				\$	
High Visibility Crosswalk				\$\$	
Signed Turned Restriction				\$	
Road Narrowing / Detached Sidewalks				\$\$\$\$\$	Drainage, Utilities
Forced Turn Island				\$\$\$	Drainage, Utilities
One-Way to Two-Way Street Conversion				\$\$\$\$\$	
Two-Way to One-Way Street Conversion				\$\$\$\$\$	
Diagonal Diverter				\$\$\$	Drainage
Median Diverter				\$\$\$	
Closure (Full or Partial)				\$\$\$\$	Legal

The cost and maintenance factors depend on materials used. Hard surfaces will have higher cost but lower maintenance. Paint and Post will have lower cost but higher maintenance.

Speed Cushions



Source: ITE, Jeff Goulden

DESCRIPTION:

- Two or more raised areas placed laterally across a roadway with gaps between raised areas
- Height and length similar to a speed hump
- Spacing of gaps allows emergency vehicles to pass through at higher speeds

APPLICATION:

- Local and collector streets
- Mid-block locations
- Avoid locations with grades greater than 8 percent
- Often placed in a series (typically spaced 260 – 500 feet apart)

OTHER CONSIDERATIONS:

- Effective at slowing travel speed but average speeds are typically higher than for a speed hump.
- Typically preferred by emergency services when compared with speed tables or speed humps
- Drivers may aim for the gap when traversing the device and stray over the center line
- May divert local drivers to another route to avoid speed cushions
- May increase noise
- May not be appropriate along bus routes
- Drainage needs to be considered

COMPLEMENTING IMPROVEMENTS

- Signing and striping

Effectiveness

Speed



EMS



Peds
Bikes



Cost



Benefit



Very Good



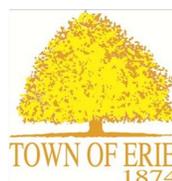
Good



Fair



Poor



Traffic Circle



DESCRIPTION:

- Raised islands placed in intersections around which traffic circulates

APPLICATION:

- Intersections of Local or Collector Streets
- Installed at unsignalized intersections
- Typically installed at intersections with low large truck volumes

OTHER CONSIDERATIONS:

- Typically circular in shape, but can be oval shaped
- Usually are landscaped within its center
- Usually designed to fit within the travel lanes of an existing intersection
- Approaching vehicles yield to those already in the intersection
- Slower speeds required to comfortably maneuver through the intersection.
- Can be used at intersections of both one-way and two-way streets
- Appropriate at streets with lower traffic volumes (<10,000 max on primary street recommended) with relatively low speeds (30 mph speed limit max) but less emergency response impact than vertical measures.
- Slows all vehicles, including large emergency vehicles and transit.
- May impact on-street parking near the intersection
- If landscaped, will require long term maintenance

COMPLEMENTING IMPROVEMENTS:

- Signing and Striping

Effectiveness

Speed



EMS



Peds
Bikes



Cost



Benefit



Very Good



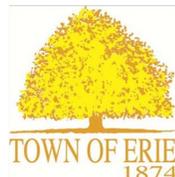
Good



Fair



Poor



Median Islands



DESCRIPTION:

- Raised islands placed in the center of the street to facilitate bicycle and pedestrian crossings.
- Also called median diverter, intersection barrier, intersection diverter, and island diverter

APPLICATION:

- For use on arterial, collector, or local roads
- Along streets with high bicycle and pedestrian volumes
- Along streets with few acceptable gaps to cross both directions of traffic

OTHER CONSIDERATIONS:

- Allows bicyclists and pedestrians to more comfortably cross streets.
- Can be used for access control/management
- Can be landscaped or used for urban design elements; leads to additional maintenance
- Can be used to restrict vehicular movements/define turning radii.
- Calms traffic on streets by physically and visually narrowing the roadway and in some cases causing lateral shift
- May impact drainage and existing utilities.
- Minimum median width requirements in order to serve as refuges

COMPLEMENTING IMPROVEMENTS

- Signing and striping
- Curb extensions

Effectiveness

Speed



EMS



Peds
Bikes



Cost



Benefit



Very Good



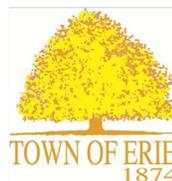
Good



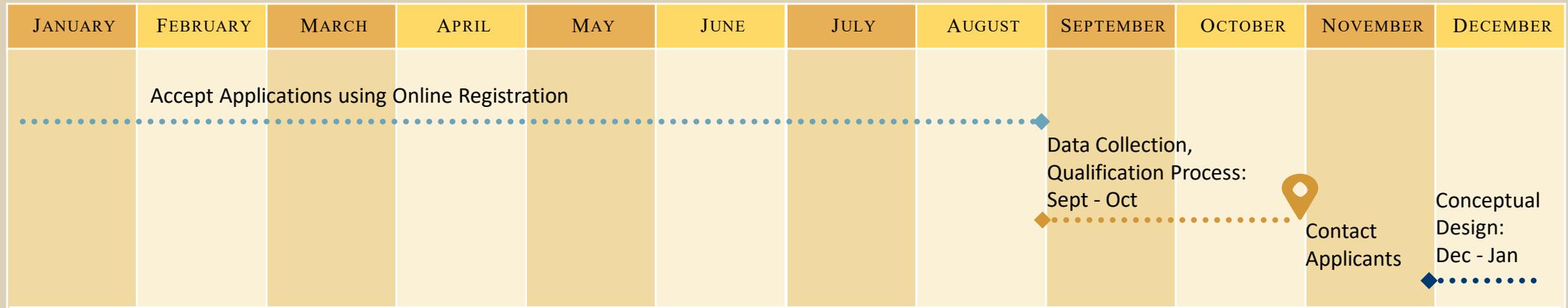
Fair



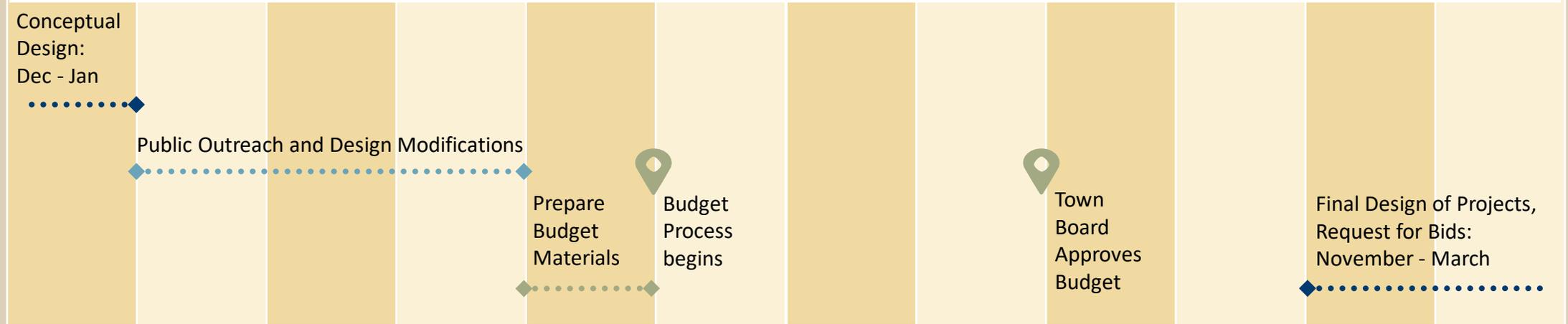
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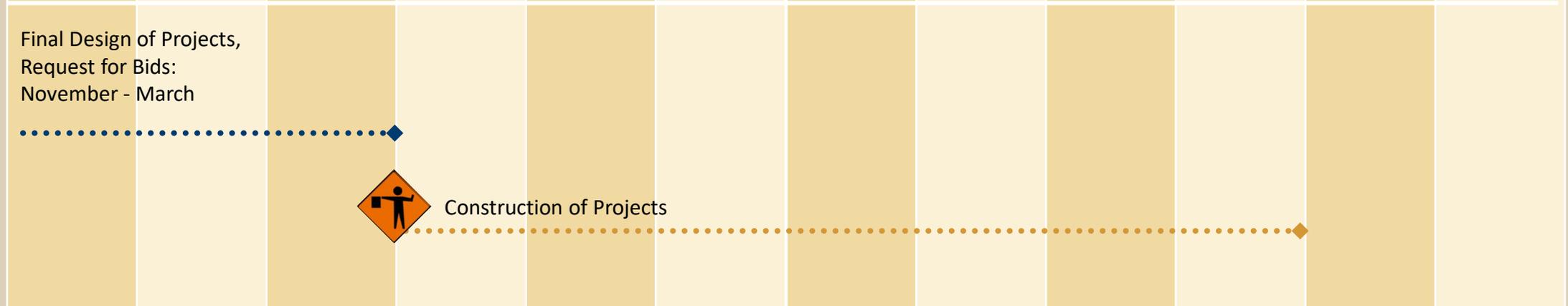
YEAR 1



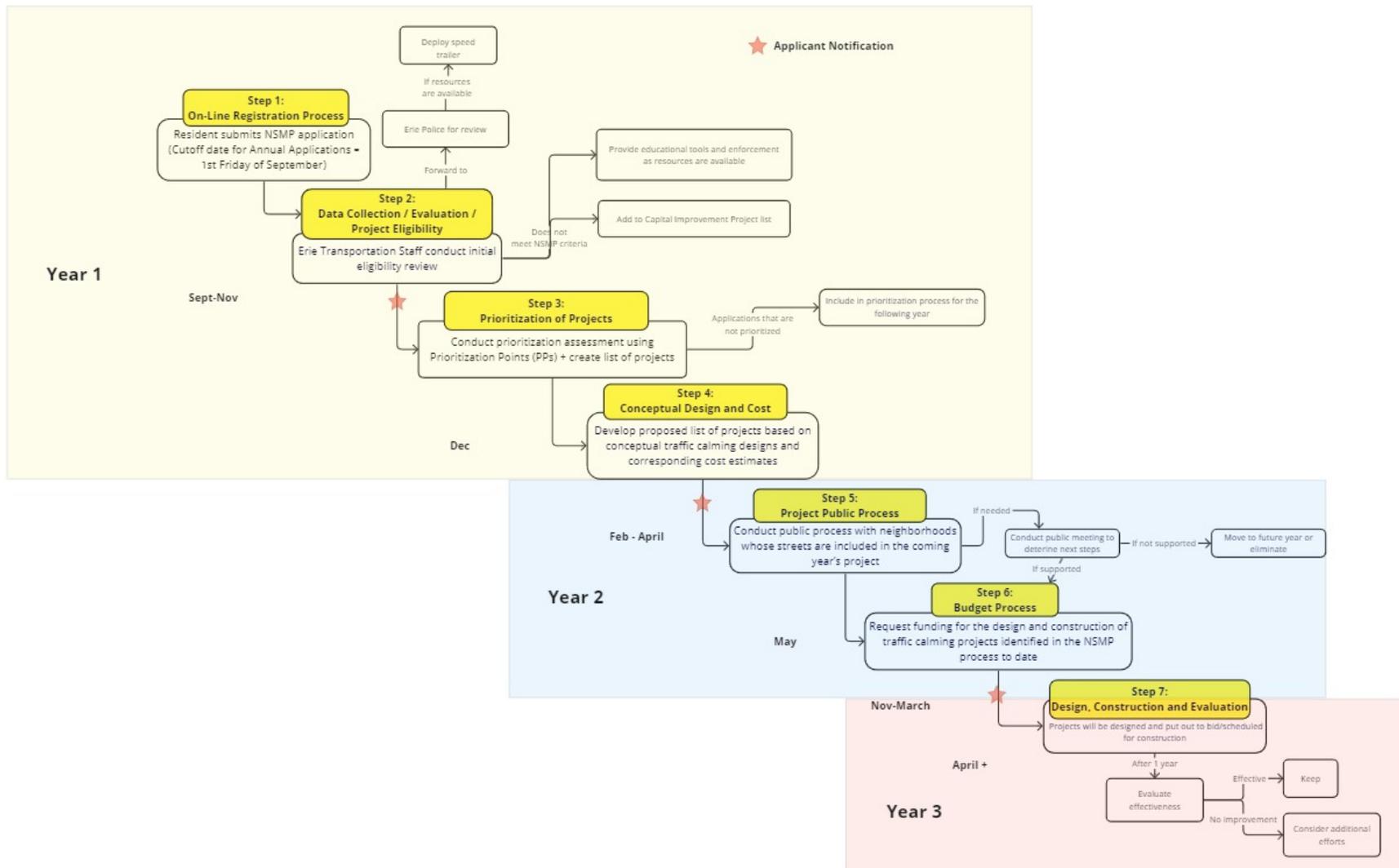
YEAR 2



YEAR 3



Appendix G – Erie’s NSMP Implementation Flow Chart





TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-294, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving the State of Colorado Subaward Agreement for Erie Flex Ride

DEPARTMENT: Public Works

PRESENTER(S): Miguel Aguilar, Principal Transportation Planner

FISCAL SUMMARY:

Cost as Recommended:	\$450,000
Balance Available:	\$1,080,000
Budget Line Item Number:	100-70-425-560120-243004
New Appropriation Required:	Yes

POLICY ISSUES:

By direction of Town Council and the Erie Transportation Mobility Plan to expand transit service, this contract will fund the microtransit service, Erie Flex Ride.

STAFF RECOMMENDATION:

Staff recommend approving the Flex Ride contract with CDOT.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town staff identified a funding opportunity to fund a microtransit service (Flex Ride) to expand transit service in the Town of Erie. The Town applied for funding through the Denver Regional Council of Governments (DRCOG) and was awarded a grant. The funding includes \$250,000 as a Town match, and grant award of \$200,000 for a total of \$450,000 for the project. Additional funding for the project will come from other DRCOG grants to continue operations after the first year.

Prior to transit service operations, staff developed a Flex Ride Service Plan for the service operations. Council approved the service plan in August 2024.

Though DRCOG awarded the grant, the contract and funds will be administered through the Colorado Department of Transportation (CDOT). This contract is between CDOT and the Town of Erie to distribute funds for the operations of Erie's Flex Ride service. It is intended that the Town of Erie will use a third-party service for the service operations.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Attractive Community Amenities
- ✓ Engaged and Diverse Community
- ✓ Prosperous Economy
- ✓ Well-Maintained Transportation Infrastructure
- ✓ Small Town Feel
- ✓ Safe and Healthy Community
- ✓ Effective Governance
- ✓ Environmentally Sustainable
- ✓ Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-081; Flex Ride CDOT K-R051925
2. CDOT Subaward Agreement 5307
3. Presentation

**Town of Erie
Resolution No. 25-081**

**A Resolution of the Town Council of the Town of Erie Approving
the State of Colorado Subaward Agreement for Erie Flex Ride**

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to approve the State of Colorado Subaward Agreement for Erie Flex Ride.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The State of Colorado Subaward Agreement for Erie Flex Ride is hereby approved in substantially the form attached hereto, subject to final approval of the Town Attorney. Upon such approval, the Mayor is authorized to execute the Agreement on behalf of the Town.

Adopted this 27th day of May, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

STATE OF COLORADO SUBAWARD AGREEMENT COVER PAGE

State Agency Department of Transportation	Agreement Number / PO Number 25-HTR-ZL-00204 / 491003911		
Subrecipient Town of Erie	Agreement Performance Beginning Date The Effective Date		
Subaward Agreement Amount	Initial Agreement Expiration Date June 30, 2026		
Federal Funds-Operating Maximum Amount (80%) \$200,000.00	Fund Expenditure End Date June 30, 2026		
Local Funds-Operating Local Match Amount (20%) \$50,000.00	Agreement Authority Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117.5, 43-1-701, 43-1-702 and 43-2-101(4)(c), appropriated and otherwise made available pursuant to the FAST ACT, MAP-21, SAFETEA_LU, 23 USC §104, 23 USC §149, 49 USC §5307(a)(2) and (3).		
Agreement Total \$250,000.00			
Agreement Purpose In accordance with 49 USC §5307, the purpose of this Agreement is to provide for transit capital and operating assistance and for transportation related planning in urbanized areas. The work to be completed under this Agreement by the Subrecipient is more specifically described in Exhibit A.			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none"> 1. Exhibit A – Statement of Work and Budget. 2. Exhibit B – Sample Option Letter. 3. Exhibit C – Federal Provisions. 4. Exhibit D – Required Federal Contract/Agreement Clauses. 5. Exhibit E – Verification of Payment. <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Exhibit C – Federal Provisions. 2. Exhibit D – Required Federal Contract/Agreement Clauses. 3. Colorado Special Provisions in §17 of the main body of this Agreement. 4. The provisions of the other sections of the main body of this Agreement. 5. Exhibit A – Statement of Work and Budget. 6. Executed Option Letters (if any). 			
Principal Representatives <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> For the State: Robin Rocke Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 robin.rocke@state.co.us </td> <td style="width: 50%; border: none;"> For Subrecipient: Miguel Aguilar Town of Erie P.O. Box 168 Erie, CO 80516 maguilar@erieco.gov </td> </tr> </table>		For the State: Robin Rocke Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 robin.rocke@state.co.us	For Subrecipient: Miguel Aguilar Town of Erie P.O. Box 168 Erie, CO 80516 maguilar@erieco.gov
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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<p style="text-align: center;">SUBRECIPIENT Town of Erie</p> <p>By: _____</p> <p>Name: <u>Andrew Moore</u></p> <p>Title: <u>Mayor</u></p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p style="text-align: center;">Second Subrecipient Signature, If Needed Town of Erie</p> <p>By: _____</p> <p>Name: <u>Debbie Stamp</u></p> <p>Title: <u>Town Clerk</u></p> <p>Date: _____</p>	
<p>In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p style="text-align: center;">_____ By: Department of Transportation</p> <p style="text-align: center;">Effective Date: _____</p>	

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1. PARTIES

This Agreement is entered into by and between Subrecipient named on the Cover Page for this Agreement (the “Subrecipient”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the “State”). Subrecipient and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Subrecipient for any Work performed or expense incurred before the Effective Date, except as described in **§5.D**, or after the Fund Expenditure End Date.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for Breach of Agreement by Subrecipient, which shall be governed by **§12.A.i**.

i. Method and Content

The State shall notify Subrecipient of such termination in accordance with **§14**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Subrecipient shall be subject to the rights and obligations set forth in **§12.A.i.a**.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Subrecipient an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Subrecipient for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Subrecipient which are directly attributable to the uncompleted portion of Subrecipient's obligations, provided that the sum of any and all reimbursement shall not exceed the Subaward Maximum Amount payable to Subrecipient hereunder.

F. Subrecipient's Termination Under Federal Requirements

Subrecipient may request termination of this Agreement by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then Subrecipient shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this subaward agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- C. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Subrecipient, or the appointment of a receiver or similar officer for Subrecipient or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Subrecipient is debarred or suspended under §24-109-105, C.R.S., at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in Exhibit A.
- E. **"Business Day"** means any day other than Saturday, Sunday, or a legal holiday as listed in §24-11-101(1), C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **"Deliverable"** means the outcome to be achieved or output to be provided, in the form of a tangible or intangible Good or Service that is produced as a result of Subrecipient's Work that is intended to be delivered by Subrecipient.

- H. “**Effective Date**” means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Agreement.
- I. “**End of Term Extension**” means the time period defined in §2.D.
- J. “**Exhibits**” means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- K. “**Extension Term**” means the time period defined in §2.C.
- L. “**Federal Award**” means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a Subrecipient or payments to an individual that is a beneficiary of a Federal program.
- M. “**Federal Awarding Agency**” means a Federal agency providing a Federal Award to a Recipient. Federal Transit Administration (FTA) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- N. “**FTA**” means Federal Transit Administration.
- O. “**Goods**” means any movable material acquired, produced, or delivered by Subrecipient as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Subrecipient in connection with the Services.
- P. “**Grant Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- Q. “**Incident**” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- R. “**Initial Term**” means the time period defined in §2.B.
- S. “**Master Agreement**” means the FTA Master Agreement document incorporated by reference and made part of FTA’s standard terms and conditions governing the administration of a project supported with federal assistance awarded by FTA.
- T. “**Matching Funds**” (Local Funds, or Local Match) means the funds provided by Subrecipient as a match required to receive the Grant Funds and includes in-kind contribution.
- U. “**Party**” means the State or Subrecipient, and “Parties” means both the State and Subrecipient.
- V. “**PII**” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- W. “**Recipient**” means the State agency shown on the Signature and Cover Pages of this Agreement, for the purposes of this Federal Award.
- X. “**Services**” means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- Y. “**State Confidential Information**” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include but is not limited to PII and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party

who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- Z. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- AA. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- BB. **“State Records”** means any and all State data, information, and records regardless of physical form.
- CC. **“Subaward Maximum Amount”** means an amount equal to the total of Grant Funds for this Agreement.
- DD. **“Subcontractor”** means any third party engaged by Subrecipient to aid in performance of the Work. “Subcontractor” also includes sub-recipients of Grant Funds.
- EE. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Agreement, Contractor is a Subrecipient.
- FF. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- GG. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- HH. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined elsewhere in this Agreement or in an Exhibit shall be construed and interpreted as defined in that section.

4. STATEMENT OF WORK AND BUDGET

Subrecipient shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Subrecipient for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO SUBRECIPIENT

A. Subaward Maximum Amount

Payments to Subrecipient are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Subrecipient any amount under this Agreement that exceeds the Subaward Maximum Amount shown on the Cover Page of this Agreement as “Federal Funds Maximum Amount”.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Subrecipient in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Subrecipient shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Subrecipient and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Subrecipient shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Subrecipient shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days' interest to be paid and the interest rate.

iii. Payment Disputes

If Subrecipient disputes any calculation, determination or amount of any payment, Subrecipient shall notify the State in writing of its dispute within 30 days following the earlier to occur of Subrecipient's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Subrecipient and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Subrecipient beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Subrecipient shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Matching Funds

Subrecipient shall provide Matching Funds as provided in Exhibit A. Subrecipient shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Subrecipient and paid into Subrecipient's treasury or bank account. Subrecipient represents to the State that the amount designated "Subrecipient's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies.

D. Reimbursement of Subrecipient Costs

- i. The State shall reimburse Subrecipient for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of §5, this Agreement, and Exhibit A. However, any costs incurred by Subrecipient prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Subrecipient for costs or expenses incurred or performance by the Subrecipient prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the

Subrecipient. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement.

- ii. The State shall reimburse Subrecipient's allowable costs, not exceeding the Subaward Maximum Amount shown on the Cover Page of this Agreement and on Exhibit A for all allowable costs described in this Agreement and shown in Exhibit A, except that Subrecipient may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Subrecipient provides notice to the State of the change, the change does not modify the Subaward Maximum Amount or the Subaward Maximum Amount for any federal fiscal year or State Fiscal Year, and the change does not modify any requirements of the Work.
- iii. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Subrecipient (i.e. the price paid minus any items of value received by Subrecipient that reduce the cost actually incurred).
- iv. Subrecipient's costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Subrecipient shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Close-Out

Subrecipient shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, Subrecipient shall submit to the State all Deliverables (including documentation) as defined in this Agreement and Subrecipient's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within one year and 90 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement due to Subrecipient's failure to submit required documentation, then Subrecipient may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, Subrecipient shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Subrecipient is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Subrecipient's ability to perform its obligations under this Agreement, Subrecipient shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's Principal Representative identified on the Cover Page for this Agreement.

C. Performance and Final Status

Subrecipient shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Subrecipient shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance

allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. SUBRECIPIENT RECORDS

A. Maintenance

Subrecipient shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work and the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder (collectively, the "Subrecipient Records"). Subrecipient shall maintain such records for a period of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively (the "Record Retention Period"). If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Subrecipient in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Subrecipient shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Subrecipient Records during the Record Retention Period. Subrecipient shall make Subrecipient Records available during normal business hours at Subrecipient's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by the State or that governmental entity. Subrecipient shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Subrecipient and this Agreement. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Subrecipient's performance in a manner that does not unduly interfere with Subrecipient's performance of the Work.

D. Final Audit Report

Subrecipient shall promptly submit to the State a copy of any final audit report of an audit performed on Subrecipient's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Subrecipient or a third party. Additionally, if Subrecipient is required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Subrecipient shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

Subrecipient shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Subrecipient shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in writing by the State. Subrecipient shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Subrecipient shall immediately forward any request or demand for State Records to the State's Principal Representative identified on the Cover Page of the Agreement.

B. Other Entity Access and Nondisclosure Agreements

Subrecipient may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement.

Subrecipient shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Subrecipient shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

Subrecipient shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Subrecipient shall provide the State with access, subject to Subrecipient's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Subrecipient shall return State Records provided to Subrecipient or destroy such State Records and certify to the State that it has done so, as directed by the State. If Subrecipient is prevented by law or regulation from returning or destroying State Confidential Information, Subrecipient warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Subrecipient becomes aware of any Incident, Subrecipient shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Subrecipient can establish that Subrecipient and its agents, employees, and Subcontractors are not the cause or source of the Incident, Subrecipient shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Subrecipient shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Subrecipient shall make all modifications as directed by the State. If Subrecipient cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Subrecipient shall reimburse the State for the reasonable costs thereof. The State may, in its sole discretion and at Subrecipient's sole expense, require Subrecipient to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Subrecipient shall provide the State with the results of such audit and evidence of Subrecipient's planned remediation in response to any negative findings.

E. Data Protection and Handling

Subrecipient shall ensure that all State Records and Work Product in the possession of Subrecipient or any Subcontractors are protected and handled in accordance with the requirements of this Agreement, including the requirements of any Exhibits hereto, at all times. As used in this section, the protections afforded Work Product only apply to Work Product that requires confidential treatment.

F. Safeguarding PII

If Subrecipient or any of its Subcontractors will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S., and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Subrecipient shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Subrecipient under this Agreement. Such a conflict of interest would arise when a Subrecipient or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Subrecipient acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Subrecipient shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Subrecipient's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Subrecipient is uncertain whether a conflict or the appearance of a conflict has arisen, Subrecipient shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

- D. Subrecipient acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Subrecipient further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S., with regard to this Agreement. For the avoidance of doubt, an actual or apparent conflict of interest shall exist if Subrecipient employs or contracts with any State employee, any former State employee within six months following such employee's termination of employment with the State, or any immediate family member of such current or former State employee. Subrecipient shall provide a disclosure statement as described in §9.C. no later than ten days following entry into a contractual or employment relationship as described in this section. Failure to timely submit a disclosure statement shall constitute a Breach of Agreement. Subrecipient may also be subject to such penalties as are allowed by law.**

10. INSURANCE

Subrecipient shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Subrecipient or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Subrecipient and Subcontractors.

E. Primacy of Coverage

Coverage required of Subrecipient and each Subcontractor shall be primary over any insurance or self-insurance program carried by Subrecipient or the State.

F. Cancellation

All insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Subrecipient and

Subrecipient shall forward such notice to the State in accordance with **§14** within seven days of Subrecipient's receipt of such notice.

G. Subrogation Waiver

All insurance policies secured or maintained by Subrecipient or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Subrecipient or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Subrecipient is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Subrecipient shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Subrecipient shall ensure that the Subcontractor maintain at all times during the terms of this Subrecipient, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each insurance plan provided by Subrecipient under this Agreement, Subrecipient shall provide to the State certificates evidencing Subrecipient's insurance coverage required in this Agreement prior to the Effective Date. Subrecipient shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that, if Subrecipient's subcontract is not in effect as of the Effective Date, Subrecipient shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following Subrecipient's execution of the subcontract. No later than 15 days before the expiration date of Subrecipient's or any Subcontractor's coverage, Subrecipient shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Subrecipient shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Agreement, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in **§12** for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Subrecipient is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Subrecipient is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§11**, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach of Agreement

In the event of Subrecipient's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Subrecipient fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Subrecipient shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Subrecipient shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Subrecipient shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Subrecipient shall assign to the State all of Subrecipient's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Subrecipient shall take timely, reasonable and necessary action to protect and preserve property in the possession of Subrecipient but in which the State has an interest. At the State's request, Subrecipient shall return materials owned by the State in Subrecipient's possession at the time of any termination. Subrecipient shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Subrecipient for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Subrecipient was not in breach or that Subrecipient's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Subrecipient shall remain liable to the State for any damages sustained by the State in connection with any breach by Subrecipient, and the State may withhold payment to Subrecipient for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Subrecipient is determined. The State may withhold any amount that may be due Subrecipient as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Subrecipient's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Subrecipient to an adjustment in price or cost or an adjustment in the performance schedule. Subrecipient shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Subrecipient after the suspension of performance.

b. Withhold Payment

Withhold payment to Subrecipient until Subrecipient corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Subrecipient's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Subrecipient's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Subrecipient shall, as approved by the State (i) secure that right to use such Work for the State and Subrecipient;

(ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Subrecipient's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Subrecipient, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Subrecipient for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Subrecipient shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S., for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (collectively, the "Resolution Statutes"), except that if Subrecipient wishes to challenge any decision rendered by the Procurement Official, Subrecipient's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Subrecipient pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Subrecipient agrees to provide to the State a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use the Work Product described herein, for the Federal Awarding Agency's and State's purposes. All Work Product shall be delivered to the State by Subrecipient upon completion or termination hereof.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, all State Records, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Subrecipient are the exclusive property of the State (collectively, "State Materials"). Subrecipient shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Subrecipient's obligations in this Agreement without the prior written consent of the State. Upon termination

of this Agreement for any reason, Subrecipient shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Subrecipient

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Subrecipient under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. GENERAL PROVISIONS

A. Assignment

Subrecipient's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Subrecipient's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Subrecipient shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Subrecipient shall submit to the State a copy of each such subaward or subcontract upon request by the State. All subawards and subcontracts entered into by Subrecipient in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Subrecipient enters into a subcontract or subaward would also be considered a Subrecipient, then the subcontract or subaward entered into by Subrecipient shall also contain provisions permitting both Subrecipient and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Binding Effect

Except as otherwise provided in §16.A, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Subrecipient's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State imposes such taxes on Subrecipient. Subrecipient shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Subrecipient may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§16.A**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Subrecipient shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Subrecipient's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations

i. Subrecipient shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or

Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

- ii. Subrecipient, if a foreign corporation or other foreign entity transacting business in the State of Colorado, shall obtain prior to the Effective Date and maintain at all times during the term of this Agreement, at its sole expense, a certificate of authority to transact business in the State of Colorado and designate a registered agent in Colorado to accept service of process.

T. **Federal Provisions**

Subrecipient shall comply with all applicable requirements of Exhibits C and D at all times during the term of this Agreement.

17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all agreements except where noted in italics.

A. **STATUTORY APPROVAL. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. **FUND AVAILABILITY. §24-30-202(5.5), C.R.S.**

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. **GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. **INDEPENDENT CONTRACTOR.**

Subrecipient shall perform its duties hereunder as an independent contractor and not as an employee. Neither Subrecipient nor any agent or employee of Subrecipient shall be deemed to be an agent or employee of the State. Subrecipient shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Subrecipient and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Subrecipient or any of its agents or employees. Subrecipient shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Subrecipient shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. **COMPLIANCE WITH LAW.**

Subrecipient shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. **CHOICE OF LAW, JURISDICTION, AND VENUE.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Agreement that requires the State to indemnify or hold Subrecipient harmless; requires the State to agree to binding arbitration; limits Subrecipient's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Subrecipient hereby certifies and warrants that, during the term of this Agreement and any extensions, Subrecipient has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Subrecipient is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Subrecipient has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Subrecipient's services and Subrecipient shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Subrecipient (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the

Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.

Subrecipient, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Subrecipient **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S., prior to the Effective Date of this Agreement.

EXHIBIT A, STATEMENT OF WORK AND BUDGET

Project Description*	2024-5307: Flexride Starter Service Operating				
Federal Awarding Agency	Federal Transit Administration (FTA)				
Federal Regional Contact	David Beckhouse				
Year of Funding and Federal Funding Source	FFY 2024 FTA-5307				
CFDA Title	Urbanized Area Formula Grants Program				
CFDA #	20.507	FAIN**	1130-2024-8		
Federal Award Date**	To Be Determined				
Project End Date	June 30, 2026				
Subrecipient	Erie, Town of	UEID #	X54EMT612417		
Contact Name	Miguel Aguilar	Vendor #	2000001		
Address	P.O. Box 750 Erie, CO 80516	Phone #	(303) 926-2700		
Email	maguilar@erieco.gov	Indirect Rate	N/A		
Total Project Budget	\$250,000.00				
Budget	WBS***	ALI	Federal Funds	Local Funds	Total
Operating	24-07-4001.ERIE.300	30.09.01	80% \$200,000.00	20% \$50,000.00	\$250,000.00
Total Project Amount Encumbered via this Subaward Agreement	\$250,000.00				

*This is not a research and development grant.

**The FAIN and/or Federal Award Date are not available at the time of execution of this Subaward Agreement. This information will be maintained in COTRAMS, CDOT’s transit awards management system, and will be provided to Town of Erie there once obtained.

***The WBS numbers may be replaced without changing the amount of the grant at CDOT’s discretion.

A. Project Description

Town of Erie shall use FTA-5307 funds, along with local matching funds, to maintain the existence of public transportation services through the following goals:

1. Enhance access to health care, education, employment, public services, recreation, social transactions, and other basic needs;
2. Assist in the maintenance, development, improvement and use of public transportation in their Transportation Planning Region (TPR);
3. Encourage and facilitate the most efficient use of all transportation funds used to provide passenger transportation in their TPR through the coordination of programs and services; and
4. Encourage mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development.

This funding is provided to support the services described above from the date of execution of this Subaward Agreement through June 30, 2026.

B. Performance Standards

1. Project Milestones

Milestone Description	Original Estimated Completion Date
Submit Initial Reimbursement Request in COTRAMS	9/5/2025
Submit Progress Reports to Project Manager	10/28/2025
Submit Final Reimbursement Request in COTRAMS	6/30/2026
IMPORTANT NOTE: All milestones in this Statement of Work (except for the final reimbursement request) must be completed no later than the expiration date of this Subaward Agreement: June 30, 2026.	

2. Performance will be reviewed throughout the duration of this Subaward Agreement. Town of Erie shall report to the CDOT Project Manager whenever one or more of the following occurs:
 - a. Budget or schedule changes;
 - b. Scheduled milestone or completion dates are not met;
 - c. Identification of problem areas and how the problems will be resolved; and/or
 - d. Expected impacts and the efforts to recover from delays.

3. Town of Erie shall assist CDOT with Disadvantaged Business Enterprise (DBE) reporting to FTA by using the biannual FTA DBE Report in COTRAMS to report:
 - a. Contracts awarded, payments made, and contracts completed between Town of Erie and prime contractors; and
 - b. Contracts awarded, payments made, and contracts completed between Town of Erie’s prime contractors and their subcontractors.

4. DBE Program Measure Reports shall be submitted in COTRAMS by Town of Erie on or before the following due dates:
 - a. Quarter 4 – Quarter 1 (for October 1 – March 31) due April 28th; and
 - b. Quarter 2 – Quarter 3 (for April 1 – September 30) due October 28th.

C. Project Budget

1. The Total Project Budget is \$250,000.00. CDOT will pay no more than 80% of the eligible, actual operating costs, up to the maximum amount of \$200,000.00. CDOT will retain any remaining balance of the federal share of FTA-5307 Funds. Town of Erie shall be solely responsible for all costs incurred in the project in excess of the amount paid by CDOT from Federal Funds for the federal share of eligible, actual costs. For CDOT accounting purposes, the Federal Funds of \$200,000.00 (80%) and matching Local Funds of \$50,000.00 (20%) will be encumbered for this Subaward Agreement.

2. No refund or reduction of the amount of Town of Erie’s share to be provided will be allowed unless there is at the same time a refund or reduction of the federal share of a proportionate amount.

3. Town of Erie may use eligible federal funds for the Local Funds share, but those funds cannot be from other Federal Department of Transportation (DOT) programs. Town of Erie’s share, together with the Federal Funds share, shall be enough to ensure payment of Total Project Budget.

4. Per the terms of this Subaward Agreement, CDOT will have no obligation to provide state funds for use on this project. CDOT will administer Federal Funds for this Project under the terms of this Subaward Agreement, provided that the federal share of FTA funds to be administered by CDOT are made available and remain available. Town of Erie shall initiate and prosecute to completion all actions necessary to enable Town of Erie to provide its share of the Total Project Budget at or prior to the time that such funds are needed to meet the Total Project Budget.

D. Allowable Costs

1. Town of Erie shall agree to adhere to the provisions for allowable and unallowable costs cited in the following regulations: 2 CFR 200.420 through 200.476; FTA C 5010.1 Chapter VI: Financial Management; Master Agreement, Section 6 “Non-Federal Share;” and 2 CFR 200.102. Other applicable requirements for cost allowability not cited previously shall also be considered.
2. Town of Erie’s operating expenses are those costs directly related to system operations. Town of Erie at a minimum, should consider the following items as operating expenses: fuel, oil, drivers and dispatcher salaries and fringe benefits, and licenses.
3. If Town of Erie elects to take administrative assistance, eligible costs may include but are not limited to: general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses; insurance premiums or payments to a self-insurance reserve; office supplies; facilities and equipment rental; standard overhead rates; and the costs of administering drug and alcohol testing. Additionally, administrative costs for promoting and coordinating ridesharing are eligible as project administration if the activity is part of a coordinated public transportation program.

E. Reimbursement Eligibility

1. Town of Erie must submit invoice(s) monthly via COTRAMS. Reimbursement will apply only to eligible expenses that are incurred within the period of performance of this Subaward Agreement.
2. Reimbursement requests must be within the limits of Section D., Allowable Costs, of this Subaward Agreement. Town of Erie will be reimbursed based on the ratio of Federal Funds share and Local Funds share set forth in the Project Budget above.
3. Town of Erie shall submit the final request for reimbursement within sixty (60) calendar days of June 30, 2026, and submit a Grant Closeout and Liquidation (GCL) Form in COTRAMS within fifteen (15) days of issuance of the final reimbursement payment.

F. Training

In an effort to enhance transit safety, Town of Erie and any subrecipients and subcontractors shall make a good faith effort to ensure that appropriate training of agency and contracted personnel is occurring and that personnel are up to date in appropriate certifications. In particular, Town of Erie shall ensure that driving personnel are provided professional training in defensive driving and training on the handling of mobility devices and transporting older adults and individuals with disabilities.

G. Restrictions on Lobbying

Town of Erie is certifying that it complies with 2 CFR 200.450 by entering into this Subaward Agreement.

H. Special Conditions

1. Town of Erie shall comply with all requirements imposed by CDOT on Town of Erie so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.
2. Town of Erie shall permit CDOT and their auditors to have access to Town of Erie’s records and financial statements as necessary, with reasonable advance notice.
3. Town of Erie shall comply with the record retention requirements outlined in 2 CFR 200.334 and FTA C 5010.1.
4. Town of Erie shall not request reimbursement for costs on this project from more than one Federal Awarding Agency or other federal awards (i.e., no duplicate billing).

5. Town of Erie shall advertise its service as available to the general public and shall not explicitly limit service by trip purpose or client type.
6. Town of Erie shall comply with FTA Drug and Alcohol Regulations, to include on time submission to FTA's Drug and Alcohol Management Information System (DAMIS).
7. Town of Erie shall ensure subcontractors and subrecipients (if any) comply with FTA Drug and Alcohol Regulations.
8. Town of Erie shall ensure that it does not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, national origin, sex, age or disability in accordance with Title VI of the Civil Rights Act of 1964.
9. Town of Erie shall seek to ensure non-discrimination in its programs and activities by developing and maintaining a Title VI Program in accordance with the "Requirements for FTA Subrecipients" in CDOT's Title VI Program Plan and FTA Circular 4702.1, "Title VI Requirements and Guidelines for FTA Recipients." Town of Erie shall also facilitate FTA's compliance with Executive Order 12898 and DOT Order 5610.2(a) by incorporating the principles of environmental justice in planning, project development and public outreach in accordance with FTA Circular 4703.1 "Environmental Justice Policy Guidance for Federal Transit Administration Recipients."
10. Town of Erie shall provide transportation services to persons with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq.
11. Town of Erie shall ensure that it does or will comply with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FTA guidance, and any other federal, state, and/or local laws, rules and/or regulations. In any contract utilizing federal funds, land, or other federal aid, Town of Erie shall require its subrecipients and/or contractors to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.
12. Town of Erie shall develop and maintain an Americans with Disabilities Act (ADA) Program in accordance with 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services, FTA Circular 4710.1, and any additional requirements established by CDOT for FTA subrecipients.
13. Town of Erie shall agree to maintain documentation that supports compliance with the ADA and produce said documentation to CDOT upon request.
14. Town of Erie will adopt a Transit Asset Management Plan that complies with regulations implementing 49 U.S.C. § 5326(d). Town of Erie shall maintain and report annually all information required by NTD and any other financial, fleet, or service data.
15. Town of Erie shall include nondiscrimination language and the Disadvantaged Business Enterprise (DBE) assurance in all contracts and solicitations in accordance with DBE regulations, 49 CFR part 26 and CDOT's DBE program.
16. Town of Erie agrees that any incidental use (e.g. meal or package delivery) shall not reduce the quality or availability of its regular public transportation service.

EXHIBIT B, SAMPLE OPTION LETTER

State Agency Department of Transportation	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Subrecipient Insert Subrecipient's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Contract Number of the Original Contract
Subaward Agreement Amount Federal Funds Maximum Amount (%) \$0.00 Local Funds Local Match Amount (%) \$0.00 Agreement Total \$0.00	Option Agreement Number Insert CMS number or Other Contract Number of this Option <hr/> Agreement Performance Beginning Date The later of the Effective Date or Month, Day, Year <hr/> Current Agreement Expiration Date Month, Day, Year

1. **OPTIONS:**
 - A. Option to extend for an Extension Term or End of Term Extension.
2. **REQUIRED PROVISIONS:**
 - A. **For use with Option 1(A):** In accordance with Section(s) 2.B/2.C of the Original Agreement referenced above, the State hereby exercises its option for an additional term/end of term extension, beginning Insert start date and ending on the current agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
3. **OPTION EFFECTIVE DATE:**
 - A. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>In accordance with §24-30-202, C.R.S., this Option Letter is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Department of Transportation</p> <p>Option Letter Effective Date: _____</p>
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EXHIBIT C, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with federal statutes, Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.
 - 2.1.5. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1

- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program. For SLFRF Grants, a subrecipient relationship continues to exist for Expenditure Category 6.1 Revenue Replacement.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
 - 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with

respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

- 2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.18. “Unique Entity ID Number” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information in SAM.gov at least annually.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS. [INTENTIONALLY DELETED]

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.
 - 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
- 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of “federally assisted construction Agreement” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.

- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never Contract with the Enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
 - 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
 - 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT D, REQUIRED FEDERAL CONTRACT/AGREEMENT CLAUSES

Section 3(i) – No Federal government obligations to third-parties by use of a disclaimer

No Federal/State Government Commitment or Liability to Third Parties. Except as the Federal Government or CDOT expressly consents in writing, the Subrecipient agrees that:

- (1) The Federal Government or CDOT does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third party Participant at any tier, or to any other person or entity that is not a party (FTA, CDOT or the Subrecipient) to the underlying Agreement, and
- (2) Notwithstanding that the Federal Government or CDOT may have concurred in or approved any Solicitation or Third party Agreement at any tier that may affect the underlying Agreement, the Federal Government and CDOT does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA, CDOT, or the Subrecipient) to the underlying Agreement.

Section 4(f) – Program fraud and false or fraudulent statements and related acts

False or Fraudulent Statements or Claims.

- (1) Civil Fraud. The Subrecipient acknowledges and agrees that:
 - (a) Federal laws, regulations, and requirements apply to itself and its Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR part 31.
 - (b) By executing the Agreement, the Subrecipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Subrecipient provides to the Federal Government and CDOT.
 - (c) The Federal Government and CDOT may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Subrecipient presents, submits, or makes available any false, fictitious, or fraudulent information.
- (2) Criminal Fraud. The Subrecipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Subrecipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

Section 9. Record Retention and Access to Sites of Performance.

- (a) Types of Records. The Subrecipient agrees that it will retain, and will require its Third party Participants to retain, complete and readily accessible records related in whole or in part to the underlying Agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- (b). Retention Period. The Subrecipient agrees to comply with the record retention requirements in the applicable U.S. OT Common Rule. Records pertaining to its Award, the accompanying underlying Agreement, and any Amendments thereto must be retained from the day the underlying Agreement was signed by the authorized FTA (or State) official through the course of the Award, the accompanying Agreement, and any Amendments thereto until three years after the Subrecipient has submitted its last or final expenditure report, and other pending matters are closed.
- (c) Access to Recipient and Third party Participant Records. The Subrecipient agrees and assures that each Subrecipient, if any, will agree to:
 - (1) Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary’s duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General’s duly authorized representatives, and to the Subrecipient and each of its Subrecipients,
 - (2) Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Subrecipient or Third party Participant within books, records, accounts, or other locations, and
 - (3) Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.
- (d) Access to the Sites of Performance. The Subrecipient agrees to permit, and to require its Third party Participants to permit, FTA and CDOT to have access to the sites of performance of its Award, the accompanying Agreement, and any Amendments thereto, and to make site visits as needed in compliance with State and the U.S. DOT Common Rules.
- (e) Closeout. Closeout of the Award does not alter the record retention or access requirements of this section of the Master Agreement.

3(G) – Federal Changes

Application of Federal, State, and Local Laws, Regulations, Requirements, and Guidance.

The Subrecipient agrees to comply with all applicable federal requirements and federal guidance. All standards or limits are minimum requirements when those standards or limits are included in the Recipient's Agreement or this Master Agreement. At the time the FTA Authorized Official (or CDOT) awards federal assistance to the Subrecipient in support of the Agreement, the federal requirements and guidance that apply then may be modified from time to time and will apply to the Subrecipient or the accompanying Agreement, except as FTA determines otherwise in writing.

12 – Civil Rights

(c) Nondiscrimination – Title VI of the Civil Rights Act. The Subrecipient agrees to, and assures that each Third party Participant, will:

- (1) Prohibit discrimination on the basis of race, color, or national origin,
- (2) Comply with:
 - (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.;
 - (ii) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332; and
- (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance;
 - (ii) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 CFR § 50.3; and
 - (iii) All other applicable federal guidance that may be issued.

(d) Equal Employment Opportunity.

- (1) Federal Requirements and Guidance. The Subrecipient agrees to, and assures that each Third Party Participant will prohibit discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - (i) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.;
 - (ii) Comply with Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.;
 - (iii) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;
 - (iv) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of the Master Agreement;
 - (v) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;” and
 - (vi) Follow other federal guidance pertaining to EEO laws, regulations, and requirements.
- (2). Specifics. The Subrecipient agrees to, and assures that each Third Party Participant will:
 - (i) Affirmative Action. Take affirmative action that includes, but is not limited to:
 - (A) Recruitment advertising, recruitment, and employment;
 - (B) Rates of pay and other forms of compensation;
 - (C) Selection for training, including apprenticeship, and upgrading; and
 - (D) Transfers, demotions, layoffs, and terminations; but
 - (ii) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer,” and
- (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
 - (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR chapter 60; and
 - (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

(h) Nondiscrimination on the Basis of Disability. The Subrecipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability:

- (1) Federal laws, including:

- (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
- (2) Federal regulations and guidance, including:
- (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37;
 - (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR part 1192 and 49 CFR part 38;
 - (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR part 39;
 - (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR part 35;
 - (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR part 36;
 - (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR part 1630;
 - (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR part 64, Subpart F;
 - (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR part 1194;
 - (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR part 609;
 - (x) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - (xi) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Incorporation of FTA Terms – 16.a.

- (a) Federal Laws, Regulations, Requirements, and Guidance. The Subrecipient agrees:
- (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

Energy Conservation – 26.j

- (a) Energy Conservation. The Subrecipient agrees to, and assures that its Subrecipients, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, “Requirements for Energy Assessments,” 49 CFR part 622, subpart C.

Applicable to Awards exceeding \$10,000**Section 11. Right of the Federal Government to Terminate.**

- (a) Justification. After providing written notice to the Subrecipient, the Subrecipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
- (1) The Subrecipient has failed to make reasonable progress implementing the Award;
 - (2) The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award; or
 - (3) The Subrecipient has violated the terms of the Agreement, especially if that violation would endanger substantial performance of the Agreement.
- (b) Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date, if it determines that the Subrecipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Agreement, and require the Subrecipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- (c) Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

Applicable to Awards exceeding \$25,000

From Section 4. Ethics.

- (a) Debarment and Suspension. The Subrecipient agrees to the following:
- (1) It will comply with the following requirements of 2 CFR part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR part 1200.
 - (2) It will not enter into any “covered transaction” (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any Third Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by-
 - (i) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200;
 - (ii) U.S. OMB regulatory guidance, “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” 2 CFR part 180; and
 - (iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Subrecipients or Third Party Participants.
 - (3) It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 CFR part 1200.
 - (4) It will that its Third Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
 - (5) If the Subrecipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Subrecipient will provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Subrecipient is located or implements the underlying Agreement,
 - (ii) FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or
 - (iii) FTA Chief Counsel.

Applicable to Awards exceeding the simplified acquisition threshold (\$100,000-see Note)

Note: Applicable when tangible property or construction will be acquired

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Subrecipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR part 661, to the extent consistent with 49 U.S.C. § 5323(j).

Section 39. Disputes, Breaches, Defaults, and Litigation.

- (a) FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
- (b) Notification to FTA; *Flow Down Requirement*. If a current or prospective legal matter that may affect the Federal Government emerges, the Subrecipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Subrecipient is located. The Subrecipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) *Additional Notice to U.S. DOT Inspector General*. The Subrecipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Subrecipient is located, if the Subrecipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Subrecipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Subrecipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Subrecipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Subrecipient, including divisions tasked with law enforcement or investigatory functions.
- (c) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Agreement. Notwithstanding the preceding sentence, the Subrecipient may return all liquidated damages it receives to its Award Budget for its Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Subrecipient receives FTA’s prior written concurrence.
- (d) Enforcement. The Subrecipient must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

Applicable to Awards exceeding \$100,000 by Statute

From Section 4. Ethics.

- a. Lobbying Restrictions. The Subrecipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the underlying Agreement, including any extension or modification, according to the following:
- (1) Laws, Regulations, Requirements, and Guidance. This includes:
 - (i) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - (ii) U.S. DOT regulations, “New Restrictions on Lobbying,” 49 CFR part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - (iii) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and
 - (2) Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Subrecipient’s or Subrecipient’s proper official channels.

Section 26. Environmental Protections – Clean Air and Clean Water

- (d) Other Environmental Federal Laws. The Subrecipient agrees to comply or facilitate compliance, and assures that its Third Party Participants will comply or facilitate compliance, with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order No. 11988, as amended, “Floodplain Management.”

Applicable with the Transfer of Property or Persons**Section 15. Preference for United States Products and Services.**

Except as the Federal Government determines otherwise in writing, the Subrecipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

- (a) Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- (c) Cargo Preference. Preference – Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR part 381; and
- (d) Fly America. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 CFR §§ 301-10.131 – 301-10.143.

Applicable to Construction Activities**Section 24. Employee Protections.**

- a. Awards Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the underlying Agreement, including the:
- (1) Prevailing Wage Requirements of:
- (i) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA’s “Davis-Bacon Related Act”);
- (ii) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147; and
- (iii) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR part 5.
- (2) Wage and Hour Requirements of:
- (i) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and
- (ii) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR part 5.
- (3) “Anti-Kickback” Prohibitions of:
- (i) Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874;
- (ii) Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. § 3145; and
- (iii) U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States,” 29 CFR part 3.
- (4) Construction Site Safety of:
- (i) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and
- (ii) U.S. DOL regulations, “Recording and Reporting Occupational Injuries and Illnesses,” 29 CFR part 1904; “Occupational Safety and Health Standards,” 29 CFR part 1910; and “Safety and Health Regulations for Construction,” 29 CFR part 1926.

From Section 16

- (n) Bonding. The Subrecipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:
- (1) Construction. As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Agreement that involve construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.
 - (2) Activities Not Involving Construction. For each Project or related activities implementing the Agreement not involving construction, the Subrecipient will not impose excessive bonding and will follow FTA guidance.

From Section 23

- (b) Seismic Safety. The Subrecipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically, 49 CFR § 41.117.

Section 12 Civil Rights D(3)

Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:

- (i). U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR chapter 60, and
- (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

Applicable to Nonconstruction Activities

From Section 24. Employee Protections

- (b) Awards Not Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR part 5.

Applicable to Transit Operations

- a. Public Transportation Employee Protective Arrangements. As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Subrecipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
- (1) U.S. DOL Certification. When its Awarded, the accompanying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Subrecipient agrees that the certification issued by U.S. DOL is a condition of the underlying Agreement and that the Subrecipient must comply with its terms and conditions.
 - (2) Special Warranty. When its Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Subrecipient agrees that its U.S. DOL Special Warranty is a condition of the underlying Agreement and the Subrecipient must comply with its terms and conditions.
 - (3) Special Arrangements for Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310. The Subrecipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subagreement participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

Section 28. Charter Service.

- (a) **Prohibitions.** The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 CFR part 604, any other Federal Charter Service regulations, federal requirements, or federal guidance.
- (b) **Exceptions.** Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)-type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Subrecipient uses that federal assistance for FTA program purposes only, and
 - (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided the Subrecipient uses that federal assistance for program purposes only.
- (c) **Violations.** If it or any Third Party Participant engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA’s Charter Service regulations, 49 CFR part 604, appendix D, or barring it or the Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

Section 29. School Bus Operations.

- (a) **Prohibitions.** The Subrecipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, “School Bus Operations,” 49 CFR part 605, and any other applicable federal “School Bus Operations” laws, regulations, federal requirements, or applicable federal guidance.
- (b) **Violations.** If a Subrecipient or any Third Party Participant has operated school bus service in violation of FTA’s School Bus laws, regulations, or requirements, FTA may require the Subrecipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Subrecipient or Third Party Participant from receiving federal transit assistance.

From Section 35 Substance Abuse

c. Alcohol Misuse and Prohibited Drug Use.

- (1) **Requirements.** The Subrecipient agrees to comply and assures that its Third Party Participants will comply with:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5331;
 - (ii) FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR part 655; and
 - (iii) Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR part 40.
- (2) **Remedies for Non-Compliance.** The Subrecipient agrees that if FTA determines that the Subrecipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR part 655, the Federal Transit Administrator may bar that Subrecipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Applicable to Planning, Research, Development, and Documentation Projects**Section 17. Patent Rights.**

- a. **General.** The Subrecipient agrees that:
 - (1) Depending on the nature of the Agreement, the Federal Government may acquire patent rights when the Subrecipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery;
 - (2) The Federal Government’s rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through the underlying Agreement; or
 - (3) When a patent is issued or patented information becomes available as described in the preceding section 17(a)(2) of this Master Agreement, the Subrecipient will notify FTA immediately and provide a detailed report satisfactory to FTA.

- b. Federal Rights. The Subrecipient agrees that:
- (1) Its rights and responsibilities, and each Third Party Participant's rights and responsibilities, in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof, and
 - (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Subrecipient will transmit the Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200 et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR part 401.
- c. License Fees and Royalties. Consistent with the applicable U.S. DOT Common Rules, the Subrecipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Agreement are program income and must be used in compliance with applicable federal requirements.

Section 18. Rights in Data and Copyrights.

- (a) *Definition of "Subject Data."* As used in this section, "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Agreement. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the underlying Agreement.
- (b) *General Federal Restrictions.* The following restrictions apply to all subject data first produced in the performance of the Agreement:
- (1) *Prohibitions.* The Subrecipient may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 - (2) *Exceptions.* The prohibitions do not apply to publications or reproductions for the Subrecipient's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- (c) *Federal Rights in Data and Copyrights.* The Subrecipient agrees that:
- (1) *General.* It must provide a license to its "subject data" to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes, and
 - (2) *U.S. DOT Public Access Plan – Copyright License.* The Subrecipient grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Subrecipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- (d) *Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs.* In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Award to the Subrecipient and its Third Party Participants. Therefore, the Subrecipient agrees that:
- (1) *Publicly Available Report.* When an Award providing federal assistance for any of the programs described above is completed, it must provide a report of the Agreement that FTA may publish or make available for publication on the Internet.
 - (2) *Other Reports.* It must provide other reports related to the Award that FTA may request.
 - (3) *Availability of Subject Data.* FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.
 - (4) *Identification of Information.* It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.

- (5) *Incomplete*. If the Award is not completed for any reason whatsoever, all data developed with federal assistance for the Award becomes “subject data” and must be delivered as the Federal Government may direct.
- (6) *Exception*. This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Subrecipient’s use and acquired with FTA capital program assistance.
- (e) *License Fees and Royalties*. Consistent with the applicable U.S. DOT Common Rules, the Subrecipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Agreement are program income and must be used in compliance with federal applicable requirements.
- (f) *Hold Harmless*. Upon request by the Federal Government, the Subrecipient agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless against any liability, including costs and expenses of the Federal Government’s officers, employees, and agents acting within the scope of their official duties. The Subrecipient will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees or agents, or if indemnification is prohibited or limited by applicable state law.
- (g) *Restrictions on Access to Patent Rights*. Nothing in this section of this Master Agreement (FTA MA(23)) pertaining to rights in data either implies a license to the Federal Government under any patent, or may be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.
- (h) *Data Developed Without Federal Assistance or Support*. The Subrecipient agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Award. The Subrecipient agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked “Proprietary,” or “Confidential.”
- (i) *Requirements to Release Data*. The Subrecipient understands and agrees that the Federal Government may be required to release data and information the Subrecipient submits to the Federal Government as required under:
- (1). The Freedom of Information Act (FOIA), 5 U.S.C. § 552,
 - (2) The U.S. DOT Common Rules,
 - (3) U.S. DOT Public Access Plan, which provides that the Subrecipient agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board’s (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at: <http://ntl.bts.gov/publicaccess/howtocomply.html>, or
 - (4) Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Award, the accompanying Agreement, and any Amendments thereto.

Miscellaneous Special Requirements

From Section 12. Civil Rights.

- (e) *Disadvantaged Business Enterprise*. To the extent authorized by applicable federal laws, regulations, or requirements, the Subrecipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Agreement as follows:
- (1) *Statutory and Regulatory Requirements*. The Subrecipient agrees to comply with:
 - (i) Section 11101(e) of IIIA;
 - (ii) U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement.
 - (2) *DBE Program Requirements*. A Subrecipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 the requirements of 49 CFR part 26.
 - (3) *Special Requirements for a Transit Vehicle Manufacturer (TVM)*. The Subrecipient agrees that:
 - (i) *TVM Certification*. Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 CFR part 26; and

- (ii) *Reporting TVM Awards.* Within 30 days of any third party contract award for a vehicle purchase, the Subrecipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached to FTA's electronic award management system. The Subrecipient must also submit additional notifications if options are exercised in subsequent years to ensure that the TVM is still in good standing.
- (4) *Assurance.* As required by 49 CFR § 26.13(a):
 - (i) *Recipient Assurance.* The Subrecipient agrees and assures that:
 - (A) It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 CFR part 26;
 - (B) It must take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts;
 - (C) Its DBE program, as required under 49 CFR part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement; and
 - (D) Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.
 - (ii) *Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance.* The Subrecipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
 - (A) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 CFR part 26;
 - (B) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
 - (C) Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of subparagraph 12.e(4)(b) (of FTA MA(23)) is a material breach of their subagreement, third party contract, or third party subcontract, as applicable; and
 - (D) The following remedies, or such other remedy as the Subrecipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- (5) *Remedies.* Upon notification to the Subrecipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 CFR part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

From Section 12. Civil Rights.

- (h) *Nondiscrimination on the Basis of Disability.* The Subrecipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability:
 - (1) Federal laws, including:
 - (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

- (2) Federal regulations and guidance, including:
- (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37;
 - (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR part 1192 and 49 CFR part 38;
 - (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR part 39;
 - (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR part 35;
 - (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR part 36;
 - (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR part 1630;
 - (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR part 64, Subpart F;
 - (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR part 1194;
 - (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR part 609,
 - (xi) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Section 16. Procurement.

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The Subrecipient agrees:
- (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

State Requirements

Section 37. Special Notification Requirements for States.

- (a) *Types of Information.* To the extent required under federal law, the State, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- (b) *Documents.* The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals, or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

EXHIBIT E, VERIFICATION OF PAYMENT

This checklist is to assist the Subrecipient in preparation of its billing packets to State. This checklist is provided as guidance and is subject to change by State. State shall provide notice of any such changes to Subrecipient. All items may not apply to your particular entity. State's goal is to reimburse Subrecipients as quickly as possible and a well organized and complete billing packet helps to expedite payment.

Verification of Payment –

- ✓ General Ledger Report must have the following:
 - Identify check number or EFT number;
 - If no check number is available, submit Accounts Payable Distribution report with the General Ledger;
 - In-Kind (must be pre-approved by State) and/or cash match;
 - Date of the report;
 - Accounting period;
 - Current period transactions; and
 - Account coding for all incurred expenditures.
- ✓ If no General Ledger Report, all of the following are acceptable:
 - copies of checks;
 - check registers; and
 - paycheck stub showing payment number, the amount paid, the check number or electronic funds transfer (EFT), and the date paid.
- ✓ State needs to ensure that expenditures incurred by the local agencies have been paid by Party *before* State is invoiced by Party.
- ✓ Payment amounts should match the amount requested on the reimbursement. Additional explanation and documentation is required for any variances.

In-Kind or Cash Match – If an entity wishes to use these types of match, they must be approved by State prior to any Work taking place.

- ✓ If in-kind or cash match is being used for the Local Match, the in-kind or cash match portion of the project must be included in the project application and the statement of work attached to the Agreement or purchase order. FTA does not require pre-approval of in-kind or cash match, but State does.
- ✓ General ledger must also show the in-kind and/or cash match.

Indirect costs – If an entity wishes to use indirect costs, the rate must be approved by State prior to applying it to the reimbursements.

- ✓ If indirect costs are being requested, an approved indirect letter from State or your cognizant agency for indirect costs, as defined in 2 CCR §200. 19, must be provided. The letter must state what indirect costs are allowed, the approved rate and the time period for the approval. The indirect cost plan must be reconciled annually and an updated letter submitted each year thereafter.

Fringe Benefits- Considered part of the Indirect Cost Rate and must be reviewed and approved prior to including these costs in the reimbursements.

- ✓ Submit an approval letter from the cognizant agency for indirect costs, as defined in 2 CCR §200. 19, that verifies fringe benefit, or
- ✓ Submit the following fringe benefit rate proposal package to State Audit Division:
 - Copy of Financial Statement;
 - Personnel Cost Worksheet;
 - State of Employee Benefits; and
 - Cost Policy Statement.

Transportation Update

CDOT Subaward Agreement – Erie Flex Ride

Town Council

Miguel Aguilar, Principal Transportation Planner

John Firouzi, Transportation & Mobility Manager

June 10, 2025



CDOT Subaward Agreement – Erie Flex Ride

How We Got Here

- Council agenda included expanding transit service
- Staff applied to DRCOG TIP grant in 2023 for flex ride transit service
- Town awarded grant to operate flex ride transit service
- Staff developed a Service Operations Plan for flex ride
- Council approved Service Operations Plan in August 2024
- CDOT delivered contract and is ready for approval

CDOT Subaward Agreement – Erie Flex Ride

Flex Ride

- Similar service to rideshare
- Curb to curb transit service
- Van sized capacity
- Reserve a trip online, phone, or app

Operations

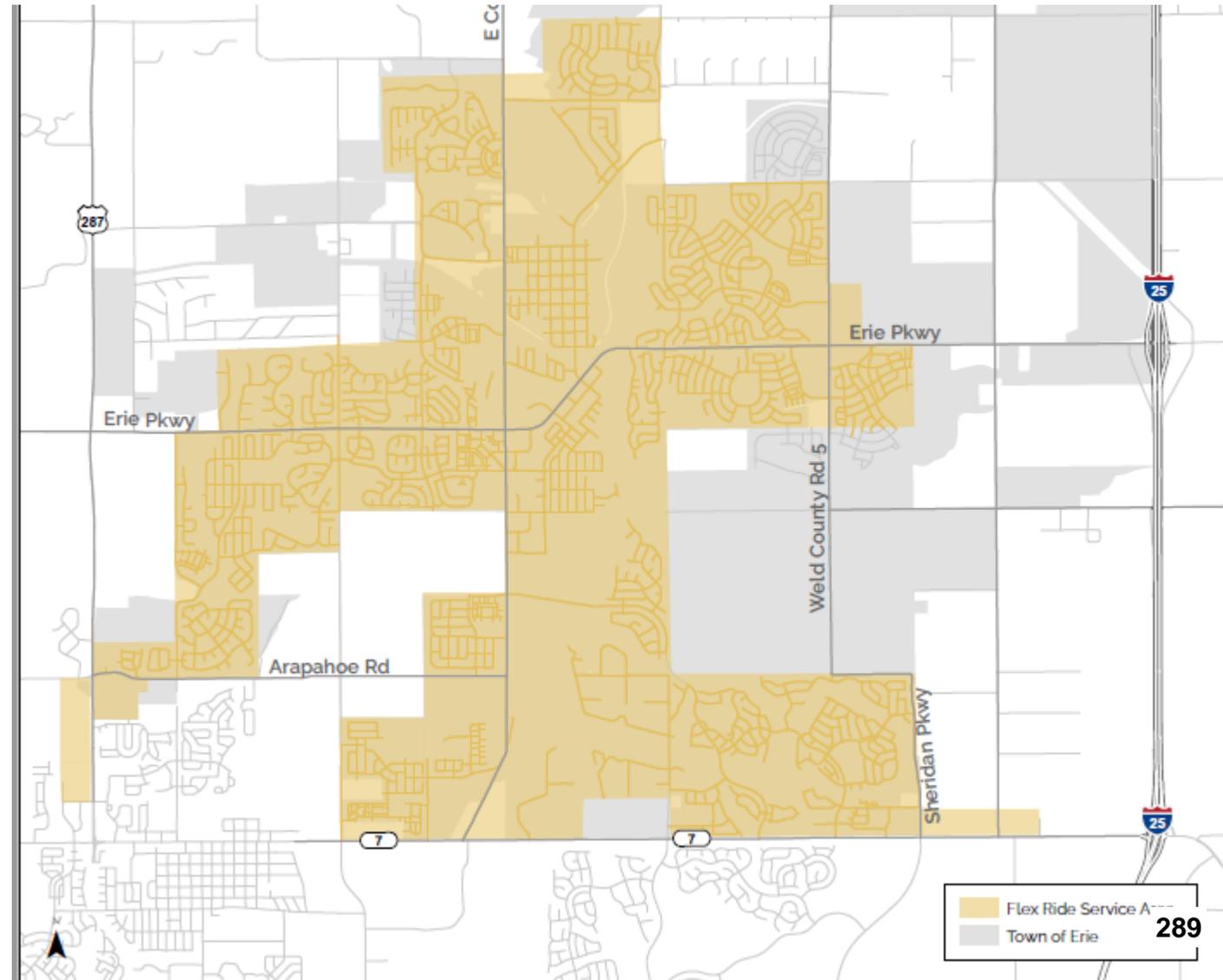
- Monday – Friday
- 6 a.m. to 8 p.m.
- Free for All
- Defined Service Area



CDOT Subaward Agreement – Erie Flex Ride

Service Area Map

- ❑ May change based on demand
- ❑ Transit provider to provide data on service





TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-218, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving an Intergovernmental Agreement with Weld County for Home Water Audit Services

DEPARTMENT: Environmental Services

PRESENTER(S): Dylan King, Sustainability and Water Conservation Specialist
Eryka Thorley, Sustainability Manager

FISCAL SUMMARY:

Cost as Recommended:	\$25,000
Balance Available:	\$150,000
Budget Line Item Number:	500-25-780-570280
New Appropriation Required:	No

POLICY ISSUES:

This IGA directly supports the Town's water conservation goals, supporting eligible residents with opportunities to replace aging and high water using equipment in their home.

STAFF RECOMMENDATION:

Approve the IGA with Weld County to provide home water audit and plumbing fixture replacement services to eligible Town residents, as determined by the Town.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Town began discussing a direct install program with Weld County Conservation Corps and partnering communities in 2023. Based on these discussions, the team drafted the attached IGA contract. This direct installation program is currently in use and supported by neighboring municipalities and water providers, most notably Greely, Evans, and Northern Water. A similar program run by the Larimer County Conservation Corps has assisted neighboring communities to reduce water usage in those areas as well.

The attached IGA outlines a partnership with the Weld County Youth Conservation Corps (WCYCC), a local workforce development program that equips youth with job skills through hands-on projects and experiences. This initiative will bring WCYCC's water fixture replacement program to Erie, providing and installing high-efficiency fixtures (e.g., showerheads, faucet aerators, and toilets) at no

cost to qualifying households. In this case, “qualifying households” will mean any household located in Erie. However, outreach will target income qualified communities as explained. All Erie residents (Weld and Boulder County) are eligible to participate.

The program will begin with a targeted focus on mobile home parks and other disproportionately impacted communities in Erie. These neighborhoods often face barriers to accessing conservation programs and stand to benefit most from reduced utility costs and updated fixtures. Town staff are collaborating with the Affordable Housing Team’s block grant program to coordinated and maximize the impact of both programs.

The WCYCC program supports Erie’s sustainability and water conservation goals, while advancing equity through prioritizing underserved area participation. It also strengthens youth development by providing WCYCC participants with meaningful work and civic engagement opportunities.

The overall budget for this program is not to exceed \$25,000 and the Town will pay the WCYCC \$500 for each individual home water audit and fixture replacement service. This budget will allow for this program to potentially reach 50 homes. The program will be invoiced monthly so the Town can track how many homes are served. Water and monetary savings for the homeowners will vary depending on the existing fixtures in the home. The current contract will expire in June 2026.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Attractive Community Amenities
- ✓ Engaged and Diverse Community
- ✓ Prosperous Economy
- ✓ Small Town Feel
- ✓ Safe and Healthy Community
- ✓ Effective Governance
- ✓ Environmentally Sustainable
- ✓ Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-090
2. Weld County Water Assess IGA

**Town of Erie
Resolution No. 25-090**

A Resolution of the Town Council of the Town of Erie Approving an Intergovernmental Agreement with Weld County for Home Water Audit Services

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to approve an Intergovernmental Agreement with Weld County for Home Water Audit Services.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Intergovernmental Agreement with Weld County is hereby approved in substantially the form attached hereto, subject to final approval of the Town Attorney. Upon such approval, the Mayor is authorized to execute the Intergovernmental Agreement on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Intergovernmental Agreement for Home Water Audit Services

This Intergovernmental Agreement for Home Water Audit Services (the "IGA") is entered into this _____ day of _____, 2025 (the "Effective Date"), by and between the Board of County Commissioners of Weld County (the "County"), by and on behalf of the Weld County Department of Human Services' Weld County Youth Conservation Corps ("WCYCC"), and the Town of Erie, a Colorado home rule municipality (the "Town") (each a "Party" and collectively referred to herein as the "Parties").

Whereas, the Parties are authorized to enter into governmental agreements pursuant to the provisions of the Colorado Constitution, state statute, and home rule charter to better serve the citizens of the Town of Erie;

Whereas, pursuant to C.R.S. §§ 29-1-201, *et seq.*, the Parties desire to cooperate to provide home water audit services to eligible residents in the Town;

Whereas, the Parties contemplate entering into an agreement whereby the Town will provide the names of eligible residents qualifying for home water audit services to the County;

Whereas, the home water audit services include replacing toilets, shower heads, and aerators;

Whereas, the WCYCC has the means and staff to enable the provisions of such services to eligible residents; and

Whereas, the Parties are entering into this IGA for the purpose of WCYCC providing the home water audit services to eligible residents in the Town.

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. For purposes of this IGA, the following terms shall have the following meanings:

a. "Home Water Audit Services" means renovations limited to repair and/or replacement of certain home plumbing fixtures.

b. "Plumbing Fixtures" means toilets, shower heads, and aerators.

2. Term and Termination.

a. The term of this IGA shall commence on the Effective Date and terminate on June 30, 2026, unless sooner terminated as provided herein.

b. Either Party may terminate this IGA upon 30 days' prior written notice to the other Party. If this IGA is terminated by either Party, the Town agrees to pay for any remaining

outstanding service already fully completed and not yet paid for, upon an invoice for that service.

3. WCYCC Responsibilities. WCYCC shall provide the following home water audit services to eligible Town residents, as determined by the Town:

a. WCYCC staff and volunteers will remove or replace old plumbing fixtures that do not meet the set Gallons Per Minute ("GPM") threshold such as toilets, shower heads, and aerators inside the homes of eligible residents of the Town.

b. WCYCC staff and volunteers will provide tools, supplies, and delivery of fixtures for each individual home water audit service.

c. WCYCC staff and volunteers will obtain all approvals or permits required by the Town in performance of their duties.

d. The County shall maintain records of home water audit services provided to the Town, including the type of installations completed, and the dates of completion.

4. Town Responsibilities.

a. The Town shall allow the County the opportunity to review all public records maintained by the Town for the home water auditing purposes.

b. The Town shall submit other reports as requested by the County for monitoring and evaluation purposes.

5. Compensation. The Parties agree that the Town shall compensate the County for services performed under this IGA as follows:

a. The County shall submit monthly reports/invoices to the Town by the 10th of each month for individual water audit services provided during the previous month.

b. The eligible Town resident that qualified for the home water audit services is not required to contribute to payment for such services. The Town shall pay \$500 to WCYCC for each individual home water audit service, for an amount not to exceed \$25,000.

c. The Town shall pay/reimburse the County for services on a monthly basis by the end of each month.

5. Liability; Insurance. Both Parties are public entities within the meaning of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as amended (the "Act"). Each Party agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent allowed by law. Each Party shall at all times during the term of this IGA maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by one

Party, the other Party shall show proof of such insurance. Nothing in this IGA shall be construed as a waiver of the protections of the Act.

6. Confidentiality. As permitted by law, the Parties agree to use their best efforts to: maintain the confidentiality of the eligible Town resident information; not use the information for any purposes other than contained in the scope of work defined in this IGA; and not disclose the information to anyone other than those directly involved with this IGA. Confidential information will not include information that: at the time of disclosure or subsequent to that time is generally available to the public; or is made known to the County by a third party not connected with the Town or the County.

7. Representatives.

For the County:

Elizabeth Barber
Employment Services
Division Head

For the Town:

Eryka Thorley, Sustainability Manager

8. Notice. All notices required under this IGA shall be given by first class U.S. Mail, addressed as follows:

For the County:

Jamie Ulrich, Director
P.O. Box A
Greeley, CO 80632
(970) 400-6581

For the Town:

Eryka Thorley, Sustainability Manager
625 Pierce Street
Erie, CO 80516
(303) 926-2880

9. Independent Contractor. WCYCC is an independent contractor. Notwithstanding any provision in this IGA, all personnel assigned by the County or WCYCC to perform services under this IGA, and remain at all times, employees, or agents of the County or WCYCC, respectively. WCYCC's staff is not entitled to workers' compensation benefits, unemployment insurance benefits unless unemployment compensation coverage is provided by the WCYCC or some entity other than the Town.

10. Miscellaneous.

a. *Governing Law and Venue.* This IGA shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this IGA by the Town shall not constitute a waiver of any of the other terms or obligation of this IGA.

c. *Integration.* This IGA constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this IGA.

e. *Severability.* If any provision of this IGA is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

f. *Modification.* This IGA may only be modified upon written agreement of the Parties.

g. *Assignment.* Neither this IGA nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

h. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of either Party not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

i. *Force Majeure.* No Party shall be in breach of this IGA if such Party's failure to perform any of the duties under this IGA is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this IGA due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

j. *Tax Exempt Status.* Both Parties are tax-exempt and are not liable for sales, use, excise, property, or other taxes imposed by any federal, state, or local governmental taxing authority.

h. *Employee Financial Interest/Conflict of Interest.* The signatories to this IGA state that to their knowledge, no employee of the County or the Town has any personal or beneficial interest whatsoever in the service or property which is the subject matter of this IGA.

In Witness Whereof, the Parties have executed this IGA as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Weld County

Board of County Commissioners
Weld County, Colorado

Attest: _____
Clerk to the Board

By: _____
Deputy Clerk to the Board

Perry L. Buck, Chair



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-339, **Version:** 1

SUBJECT:

A Resolution of the Town Council of the Town of Erie Approving an Agreement for Transfer of Federal Entitlement Funds from the Erie Municipal Airport to the Fremont County Airport

DEPARTMENT: Utilities/Public Works

PRESENTER(S): Todd Fessenden, Utilities Director
David Pasic, Public Works Director

POLICY ISSUES:

N/A

STAFF RECOMMENDATION:

Approve the transfer of funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Each year, the Federal Aviation Administration (FAA) dedicates \$150,000 in General Aviation Funds to the Erie Municipal Airport for FAA approved projects. These funds generally comprise 95% of project funding with the remaining 5% typically split between the Colorado Division of Aeronautics and the Town of Erie.

A common practice when the entity does not have a planned project is to loan the funds to another airport with the agreement that that airport will pay back the funds at a future designated year. The Town had done this before in previous years. This allows airports to bank funds for future use in projects costing more than the entitled \$150,000.

In 2024, the Town received an entitlement funding loan from Canon City (Fremont County Airport) to help fund the Taxiway A and Apron Rehabilitation project. This is repaying that loan back to Fremont.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Attractive Community Amenities
- ✓ Well-Maintained Transportation Infrastructure
- ✓ Safe and Healthy Community
- ✓ Effective Governance

File #: 25-339, **Version:** 1

✓ Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-094
2. Transfer Agreement

**Town of Erie
Resolution No. 25-094**

A Resolution of the Town Council of the Town of Erie Approving an Agreement for Transfer of Federal Entitlement Funds from the Erie Municipal Airport to the Fremont County Airport

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to approve a transfer of Federal Entitlement Funds from the Erie Municipal Airport to the Fremont County Airport.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Town Council hereby approves the Agreement for Transfer of Federal Entitlement Funds in substantially the form attached hereto, subject to approval of the Town's special aviation counsel. Upon such approval, the Mayor is authorized to execute the Agreement on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk



U.S. Department
of Transportation
**Federal Aviation
Administration**

Northwest Mountain Region
Colorado · Idaho · Montana · Oregon · Utah
Washington · Wyoming

Denver Airports District Office
26805 E. 68th Ave., Suite 224
Denver, CO 80249

April 8, 2025

The Honorable Andrew J Moore
Mayor, Town of Erie
P.O. Box 750
Erie, CO 80516

Dear Mayor Moore,

We are enclosing an electronic copy of the Airport Improvement Program (AIP) "Agreement For Transfer of Entitlements". This agreement will transfer \$150,000 of fiscal year (FY) 2024 and 2025 Federal funds from Erie Municipal Airport to Fremont County Airport. Please complete this agreement by having the authorized officials execute the appropriate sections. **Certification by the attorney should be completed following the acceptance and dated on or after the acceptance date.**

Your normal procedures for accepting documents such as this in accordance with local and state law should be followed, but evidence of such procedure is not required by the Federal Aviation Administration.

After execution and certification of the "Agreement For Transfer of Entitlements," please e-mail a copy of the agreement to your FAA Project Manager, Todd Minnich, at todd.e.minnich@faa.gov.

Sincerely,

Jesse A Lyman
Manager, Denver Airports District Office

Enclosure

Request for FAA Approval of Agreement for Transfer of Entitlements

In accordance with 49 USC § 47117(c)(2),

Name of Transferring Sponsor: Town of Erie, Colorado

hereby waives receipt of the following amount of funds apportioned to it under 49 USC § 47114(c) for the:

Name of Transferring Airport (and LOCID):

Erie Municipal Airport (EIK)

for each fiscal year listed below:

Entitlement Type (Passenger, Cargo or Non-primary)	Fiscal Year	Amount
Non-primary	2024	\$97,153
Non-primary	2025	\$52,847
Total		\$150,000

The Federal Aviation Administration has determined that the waived amount will be made available to:

Name of Airport (and LOCID) Receiving Transferred Entitlements:

Fremont County Airport (1V6)

Name of Receiving Airport's Sponsor: Fremont County, Colorado

a public use airport in the same state or geographical areas as the transferring airport for eligible projects under 49 USC § 47104(a).

The waiver expires on the earlier of **30 September 2025** or when the availability of apportioned funds lapses under 49 USC § 47117(b).

Dated April 8, 2025

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**



(Signature)

Jesse A Lyman

(Typed Name)

Manager, Denver Airports District Office

(Title of FAA Official)

Certification of Transferring Sponsor

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Dated

TOWN OF ERIE, COLORADO

(Name of Sponsor)

*(Signature of Sponsor's Authorized
Official/Representative)*

By:

*(Type Name of Sponsor's Authorized
Official/Representative)*

Title:

*(Title of Sponsor's Authorized
Official/Representative)*

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify that in my opinion the Sponsor is empowered to enter into the foregoing Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said state and 49 USC § 47101, et seq.

Dated at _____

By: _____
(Signature of Sponsor's Attorney)



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-349, **Version:** 1

SUBJECT: Consent Agenda

1. A Resolution of the Town Council of the Town of Erie Approving a Site Plan Agreement for Village Cooperative of Erie; and 2. A Resolution of the Town Council of the Town of Erie Approving a Permanent Easement Agreement with Village Cooperative of Erie

DEPARTMENT: Planning & Development

PRESENTER: Harry Brennan, Senior Planner

FISCAL SUMMARY: N/A.

POLICY ISSUES:

Staff's analysis indicates the proposed dedications and easement are consistent with Town Charter, Municipal Code, and the Council's priorities. Approving the Resolution will confirm Council's agreement with staff's analysis and conclusions.

STAFF RECOMMENDATION:

Approve the Site Plan Agreement and Permanent Easement Agreement shown for the Village Cooperative of Erie.

ACTION ITEMS:

The Town Council is the approval body for the Permanent Easement Agreement and the Site Plan Agreement.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Located at 3010 Village Vista Drive, the Village Cooperative project is a 64-unit age-restricted residential building with associated site improvements. The Town approved a Minor Subdivision Plat on Nov. 19, 2024, and Planning Commission approved an associated Site Plan on Dec. 18, 2024. Following these approvals, the project moved into the permitting phase.

During the building permit review, staff identified a need for an additional easement agreement for a water meter as well as a Site Plan Agreement to cover a water main extension. The Town allowed the applicant to begin construction under a foundation-only permit while the easement agreement and Site Plan Agreement were in process. However, the Town requires these two agreements to continue development.

COUNCIL PRIORITY(S) ADRESSED:

File #: 25-349, **Version:** 1

- ✓ Safe and Healthy Community
- ✓ Effective Governance

ATTACHMENTS:

1. Resolution No. 25-099
2. Resolution No. 25-100
3. Site Plan Agreement
4. Permanent Easement Agreement

**Town of Erie
Resolution No. 25-099**

**A Resolution of the Town Council of the Town of Erie Approving a
Site Plan Agreement for Village Cooperative of Erie**

Whereas, the Town Council finds it in the best interest of the public health, safety and welfare to approve a Site Plan Agreement for Village Cooperative of Erie.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Site Plan Agreement for Village Cooperative of Erie is hereby approved in substantially the form attached hereto, subject to approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Agreement on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

**Town of Erie
Resolution No. 25-100**

**A Resolution of the Town Council of the Town of Erie Approving a
Permanent Easement Agreement with Village Cooperative of Erie**

Whereas, the Town Council finds it in the best interest of the public health, safety and welfare to approve a Permanent Easement Agreement with Village Cooperative of Erie.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. The Permanent Easement Agreement with Village Cooperative of Erie is hereby approved in substantially the form attached hereto, subject to approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Agreement on behalf of the Town.

Adopted this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Site Plan Agreement
(Village Cooperative of Erie)

This Site Plan Agreement (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and Village Cooperative of Erie, a Colorado cooperative corporation with an address of 1303 Corporate Center Drive, Suite #400, Eagan, MN 55121 ("Developer") (each a "Party" and collectively the "Parties").

Whereas, Developer is the owner of the real property located at 3010 Village Vista Drive, Erie, Colorado and more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property");

Whereas, Developer intends to develop the Property into a senior cooperative housing facility (the "Development");

Whereas, the Town has reviewed and approved the site plan for the Development (the "Site Plan"); and

Whereas, the Parties acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town in connection with its approval of the Site Plan, and that such matters are necessary to protect, promote and enhance the public health, safety and welfare.

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions under which the Development may proceed. All provisions of this Agreement are in addition to, and not in lieu of, any requirements of the Erie Municipal Code (the "Code") and other applicable law.

2. Construction of Improvements.

a. *General*. Developer shall, at its own expense, design, construct and install the public improvements required for the Development listed on **Exhibit B** attached hereto and incorporated herein by this reference (the "Improvements").

b. *Construction Standards*. Developer shall construct the Improvements in accordance with plans approved by the Town (the "Plans"), as well as the Town's Standards and Specifications for Design and Construction of Public Improvements (the "Standards"). Developer shall furnish, at its expense, all necessary engineering and consulting services relating to the design and construction of the Improvements. These services shall be performed by or under the supervision of a professional engineer licensed in the State of Colorado.

c. *Public Improvement Permit.* Before the construction of any Improvements, Developer shall obtain a Public Improvement Permit ("PIP") from the Town as provided in the Code. Developer shall reimburse the Town for any expenses incurred by the Town for review of the application or associated documents. Unless otherwise approved by Town, overlot grading shall not be initiated until the Town approves drainage plans by the issuance of the PIP.

d. *Testing and Inspection.* Developer shall employ, at its own expense, a licensed testing company to perform all testing of materials or construction reasonably required by the Town. Developer shall furnish copies of test results to the Town on a timely basis. At all times during construction, the Town shall have access to inspect materials and work, and all materials and work not conforming to the Plans or Standards shall be repaired or removed and replaced at Developer's expense.

e. *Rights-of-way and Easements.* Prior to construction of any Improvements that require additional rights-of-way or easements, Developer shall acquire at its own expense all such rights-of-way and easements. Any easements or rights-of-way conveyed to the Town shall be free and clear of liens, taxes and encumbrances and shall be conveyed on documents in a form acceptable to the Town.

f. *Permits.* Developer shall, at its own cost, obtain the following permits, as applicable:

- i. Any permits required by the United States Corps of Engineers.
- ii. Colorado Department of Health and Environment General Permit for Stormwater Discharges Associated with Construction Activity.
- iii. Grading, stormwater quality and right-of-way permits.
- iv. Air quality permit.

g. *As-Built Drawings.* Upon completion of construction of the Improvements, Developer shall provide the Town with complete "as-built" drawings in the form required by the Standards..

h. *Applicable Law.* Developer shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste

Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

i. *Accessibility.* Developer shall comply with the accessibility standards for an individual with a disability adopted by the State Office of Information Technology pursuant to C.R.S. § 24-85-103, and shall indemnify, hold harmless and assume liability on behalf of the Town and its officers, employees, agents and attorneys for all costs, expenses, claims, damages, liabilities, court awards, attorney fees and related costs, and any other amounts incurred by the Town in relation to Developer's noncompliance with such accessibility standards.

3. Acceptance of Improvements and Warranty.

a. *Initial Acceptance.* No later than 10 days after Improvements are substantially complete, Developer shall request an inspection by the Town. If Developer does not request this inspection, the Town may conduct the inspection without Developer's approval. All Improvements shall receive Initial Acceptance on or before April 1, 2027.

i. If the Improvements are satisfactory, the Town shall grant Initial Acceptance.

ii. If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the repairs, replacements, construction or other work required to receive Initial Acceptance. Developer shall complete all needed repairs, replacements, construction or other work within 30 days of said notice. After Developer completes the repairs, replacements, construction or other work required, Developer shall request of the Town a re-inspection of such work to determine if Initial Acceptance can be granted, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. If Developer does not complete the repairs, replacements, or other work required within 30 days, Developer shall be in breach of this Agreement. The costs of re-inspection shall be borne by Developer.

b. *Final Acceptance.* At least 30 days before 2 years has elapsed from the issuance of Initial Acceptance, or as soon thereafter as weather permits, Developer shall request an inspection by the Town. If Developer does not request this inspection, the Town may conduct the inspection without Developer's approval.

i. If the Improvements are satisfactory, the Town shall grant Final Acceptance.

ii. If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the work required to receive Final Acceptance. After

Developer completes such work, Developer shall request a re-inspection, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work. If Developer does not complete the required work in an acceptable manner within 30 days, Developer shall be in breach of this Agreement.

c. *Warranty.* For all Improvements to be dedicated to the Town, Developer shall provide the Town with a 2-year warranty, commencing on the date of Initial Acceptance (the "Warranty Period"). Specifically, but not by way of limitation, Developer shall warrant that: the title is marketable and its transfer rightful; the Improvements are free from any security interest or other lien or encumbrance; and the Improvements are free of defects in materials or workmanship. During the Warranty Period, Developer shall, at its own expense, take all actions necessary to maintain the Improvements and make all necessary repairs or replacements.

4. Improvement Guarantee.

a. *Amount and Form.* To secure the construction and installation of the Improvements, Developer shall provide a letter of credit or cash in an amount equal to 115% of the total costs listed in **Exhibit B** (the "Improvement Guarantee"), in a form approved by the Town. If the costs listed in **Exhibit B** increase or additional Improvements are required, the Town may require the amount of the Improvement Guarantee to increase accordingly.

b. *Timing.* Developer shall not commence construction until the Town has received and approved the Improvement Guarantee.

c. *Draw.* If the Improvements are not satisfactorily completed within the periods of time specified herein, the Town may draw on the Improvement Guarantee to complete the Improvements. If the Improvement Guarantee is to expire within 14 days and Developer has not yet provided a satisfactory replacement, or has not completed the Improvements, the Town may draw on the Improvement Guarantee and hold such funds as security for performance of this Agreement, or spend such funds to finish the Improvements, or correct problems with the Improvements as the Town deems appropriate. If the Town has drawn on the Improvement Guarantee, and a satisfactory replacement guarantee is provided or the Improvements have been completed, then the Town will release any funds received as a result of its draw within a reasonable period of time, or within 10 days of a request by Developer.

d. *Reduction.* Upon Initial Acceptance, the Improvement Guarantee shall be reduced to the amount which is 25% of the total actual cost of construction and installation of such Improvements. The reduced Improvement Guarantee shall be held by the Town during the Warranty Period.

5. Indemnification. Developer agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representatives, agents, employees, attorneys, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by the omission, error, professional error, mistake, negligence, or other fault of Developer, or any officer, employee, representative, agent or subcontractor of Developer. In addition, Developer shall pay all property taxes on property underlying Improvements to be dedicated to the Town before acceptance by the Town, and shall indemnify and hold harmless the Town for any such property tax liability.

6. Developer's Representations and Warranties. Developer hereby represents and warrants to the Town that all of the following are true and correct as of the date of signature and the Effective Date: this Agreement has been duly authorized and executed by Developer as the legal, valid and binding obligation of Developer, and is enforceable as to Developer in accordance with its terms; the person executing this Agreement on behalf of Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of Developer; to the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Developer which, if decided or determined adversely, would have a material adverse effect on the ability of Developer to undertake its obligations under this Agreement nor, to the best of Developer's knowledge, is there any fact or condition of the Property known to Developer that may have a material adverse effect on Developer's ability to develop the Property as contemplated; and neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Developer is a party or by which Developer is bound or affected.

7. Breach.

a. *Remedies.* If Developer breaches this Agreement, then the Town may take such action as permitted or authorized by law, this Agreement or the ordinances of the Town, as the Town deems necessary to protect the public health, safety and welfare, The Town's remedies include without limitation:

i. The refusal to issue a building permit or certificate of occupancy for the Development;

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

iii. A draw on the Improvement Guarantee; and

iv. Any other remedy available at law or in equity.

b. *Notice.* Unless necessary to protect the immediate health, safety and welfare of the Town, or to protect the interest of the Town with regard to the Improvement Guarantee, the Town shall provide Developer 30 days' prior written notice of its intent to take any action under this Section, during which Developer may cure the breach.

c. *Nature of Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

8. Miscellaneous.

a. *Assignment.* This Agreement shall not be assigned by Developer in whole or in part without the prior written authorization of the Town.

b. *Governing Law and Venue.* The laws of the State of Colorado shall govern this Agreement, and the exclusive venue for any legal proceeding arising out of this Agreement shall be in Weld County, Colorado.

c. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

d. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

e. *Governmental Immunity.* Nothing herein shall be construed as a waiver of any protections or immunities the Town or its employees, officials or attorneys may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

f. *No Joint Venture.* Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

g. *Notice.* Notices under this Agreement shall be sufficiently given if sent by regular U.S. mail, postage prepaid, to the address on the first page of this Agreement.

h. *Integration.* This Agreement, together with all exhibits attached hereto, constitute the entire understanding and agreement of the Parties, integrates all the terms and conditions mentioned herein or incidental thereto, and supersedes all negotiations or

previous arrangements between the Parties with respect to any and all of the subject matter hereof.

i. *Recordation.* This Agreement shall be recorded in the real estate records of the Weld County Clerk and Recorder, and shall be a covenant running with the Property.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

k. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

l. *Anti-Deficiency Act Compliance.* If the United States Department of Housing and Urban Development ("HUD") becomes an owner of all or any part of the Property and is therefore deemed a successor to Developer under this Agreement, HUD shall not be subject to the indemnification provisions in Section 5 hereof, and HUD does not authorize any commitment or expenditure which would violate 31 U.S.C. § 1341 (the "Anti-Deficiency Act").

In Witness Whereof, the Parties have executed this Site Plan Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

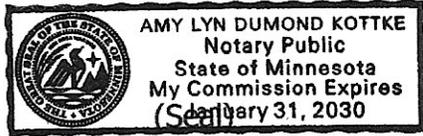
Developer

Village Cooperative of Erie, a Colorado cooperative corporation

By: *Andrew R. Schaefer*
Andrew R. Schaefer, Authorized Signatory

State of Minnesota)
) ss.
County of Dakota)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 29th day of April, 2025, by Andrew R. Schaefer, the Authorized Signatory of Village Cooperative of Erie, a Colorado cooperative corporation.



Amy L. Dumond Kottke
Notary Public
My commission expires: 01-31-2030

Exhibits List

Exhibit A – Legal Description

Exhibit B – Improvements

Exhibit A
Legal Description

Lot 5D, Block 1, Vista Ridge Filing No. 11, Block 1, Lot 5 Minor Subdivision, Amendment No. 1, recorded December 9, 2024 at Reception No. 4999008, County of Weld, State of Colorado.

Exhibit B Improvements

Description of Improvements

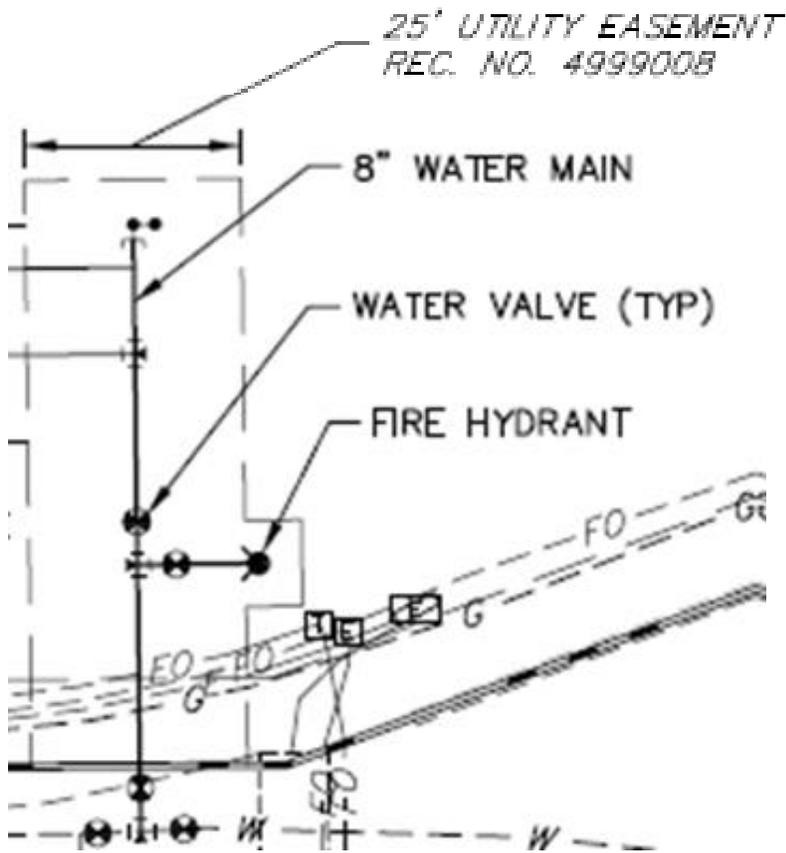
8" diameter PVC water main pipeline

Water valve (Typ)

Fire hydrant

Total Cost of Improvements:

\$28,883.92



Permanent Easement Agreement

This Permanent Easement Agreement (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between Village Cooperative of Erie, a Colorado cooperative corporation with an address of 1303 Corporate Center Drive, Suite #400 Eagan, MN 55121 ("Grantor"), and the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, 645 Holbrook Street, Erie, CO 80516 (the "Town") (each a "Party" and collectively the "Parties").

Whereas, Grantor is the owner of the real property more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property");

Whereas, Grantor wishes to construct and install, and thereafter allow the Town to use, operate, inspect, maintain and repair, water meter facilities and related appurtenances on the Property as described and depicted on **Exhibit B** attached hereto and incorporated herein by this reference (collectively the "Facilities"); and

Whereas, for this purpose, Grantor is willing to convey this permanent easement to the Town, which allows the Town to install, operate, use, repair and maintain the Facilities upon and beneath the surface of the Property.

Now, Therefore, for and in consideration of the mutual promises and covenants contained here, Grantor and the Town mutually agree as follows:

1. **Grant of Easement.** Grantor hereby grants to the Town, its successors and assigns, lessees, licensees and agents, a permanent, perpetual, non-exclusive easement (the "Easement") to enter, re-enter, occupy and use the Property to construct, reconstruct, use, operate, maintain, repair, patrol, replace, enlarge and remove the Facilities in, through, over, across, under and above the Property.
2. **Town's Rights.** The Town and its employees, agents, contractors, representatives, successors and assigns shall have and exercise the right of ingress and egress in, to, through, over, under, above and across the Property for access to perform construction, reconstruction, operation, installation, use, maintenance, repair, replacement, upkeep, monitoring and removal of the Facilities.
3. **Non-Exclusive Use.** The Town agrees that, following a written request to and approval by the Town, other utilities and facilities may be installed in the Property if such utilities do not interfere with the Town's rights as herein granted or the Town's use of the Easement and Property.
4. **Maintenance.** The Town shall be solely responsible for maintaining the Facilities, and the Facilities shall remain the Town's property. Following any such maintenance, the Town shall return the Property to the same condition it was in prior to such maintenance, or as near thereto as possible, subject to Section 5 hereof.

5. No Interference. Grantor shall not construct or place any structure, building, shrub, tree, wood plant or nursery stock, or driveway, roadway or sidewalk improvement, whether temporary or permanent, of any kind or nature on the Property that will interfere with or obstruct the Easement granted herein without the prior written consent of the Town. Any such prohibited structure or item placed on the Property may be removed by the Town at Grantor's expense and without liability to the Town for damages arising therefrom. Grantor shall retain the right to the use and occupancy of the Property to the extent that it does not interfere with the Town's rights or its use of the Easement.
6. Maintenance of Grantor's Improvements. Grantor shall be solely responsible for the maintenance of all Grantor's improvements located within the Property.
7. Retained Rights. Grantor shall have all rights to the Property not granted hereby.
8. Warranty. Grantor warrants that it has the full right and legal authority to make the grant of Easement contained in this Agreement.
9. Recordation. Except as otherwise expressly provided herein, all provisions of this Agreement, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. The Town shall record this Agreement in timely fashion in the official records of Weld County and may re-record it at any time as may be required to preserve its rights in this Agreement.
10. No Merger. It is the express intent of the Parties that the doctrine of merger shall not apply to this Agreement and there will be no merger of estate between the Easement and the Property.
11. Miscellaneous.
 - a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.
 - b. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.
 - c. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either Party shall not constitute a waiver of any of the other terms or obligation of this Agreement.
 - d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent prepaid, first-class United States Mail to the Party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

h. *Governmental Immunity.* The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town, its officers, attorneys or employees.

i. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

j. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

In Witness Whereof, the Parties have executed this Permanent Easement Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

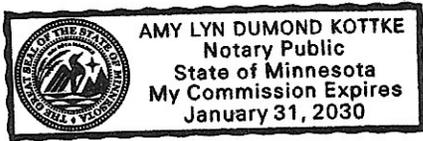
Grantor

Village Cooperative of Erie, a Colorado cooperative corporation

By: *Andrew R. Schaefer*
Andrew R. Schaefer, Authorized Signatory

State of Minnesota)
) ss.
County of Dakota)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 29th day of April, 2025, by Andrew R. Schaefer, an Authorized Signatory of Village Cooperative of Erie, a Colorado cooperative corporation.



Amy L. Dumond Kottke
Notary Public
My commission expires: 01-31-2030

(Seal)

Exhibit A
Legal Description of Property

A PORTION OF LOT 5D, BLOCK 1, VISTA RIDGE FILING NO. 11, BLOCK 1, LOT 5 MINOR SUBDIVISION, AMENDMENT NO. 1, RECORDED UNDER RECEPTION NO. 4999008 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTHERLY LINE OF VISTA RIDGE FILING NO. 11, BLOCK 1, LOT 5 MINOR SUBDIVISION, AMENDMENT NO. 1, BEING MONUMENTED AT THE WEST AND EAST ENDS BY A NAIL AND DISC STAMPED "ILLEGIBLE", PER PLAT SAID LINE BEARS N89°38'17"E.

COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 5D, BLOCK 1, VISTA RIDGE FILING NO. 11, BLOCK 1, LOT 5 MINOR SUBDIVISION, AMENDMENT NO. 1, RECORDED UNDER RECEPTION NO. 4999008 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER;

THENCE ON THE SOUTHERLY LINE OF SAID LOT 5D, N89°38'17"E A DISTANCE OF 197.41 FEET, TO THE WESTERLY LINE OF THE 25.00 FEET WIDE UTILITY EASEMENT AS SHOWN ON VISTA RIDGE FILING NO. 11, BLOCK 1, LOT 5 MINOR SUBDIVISION, AMENDMENT NO. 1;

THENCE ON SAID WESTERLY EASEMENT LINE, N00°42'24"W A DISTANCE OF 37.49 FEET, TO THE POINT OF BEGINNING;

THENCE DEPARTING SAID EASEMENT LINE, THE FOLLOWING THREE (3) COURSES:

THENCE S89°20'55"W A DISTANCE OF 59.93 FEET;

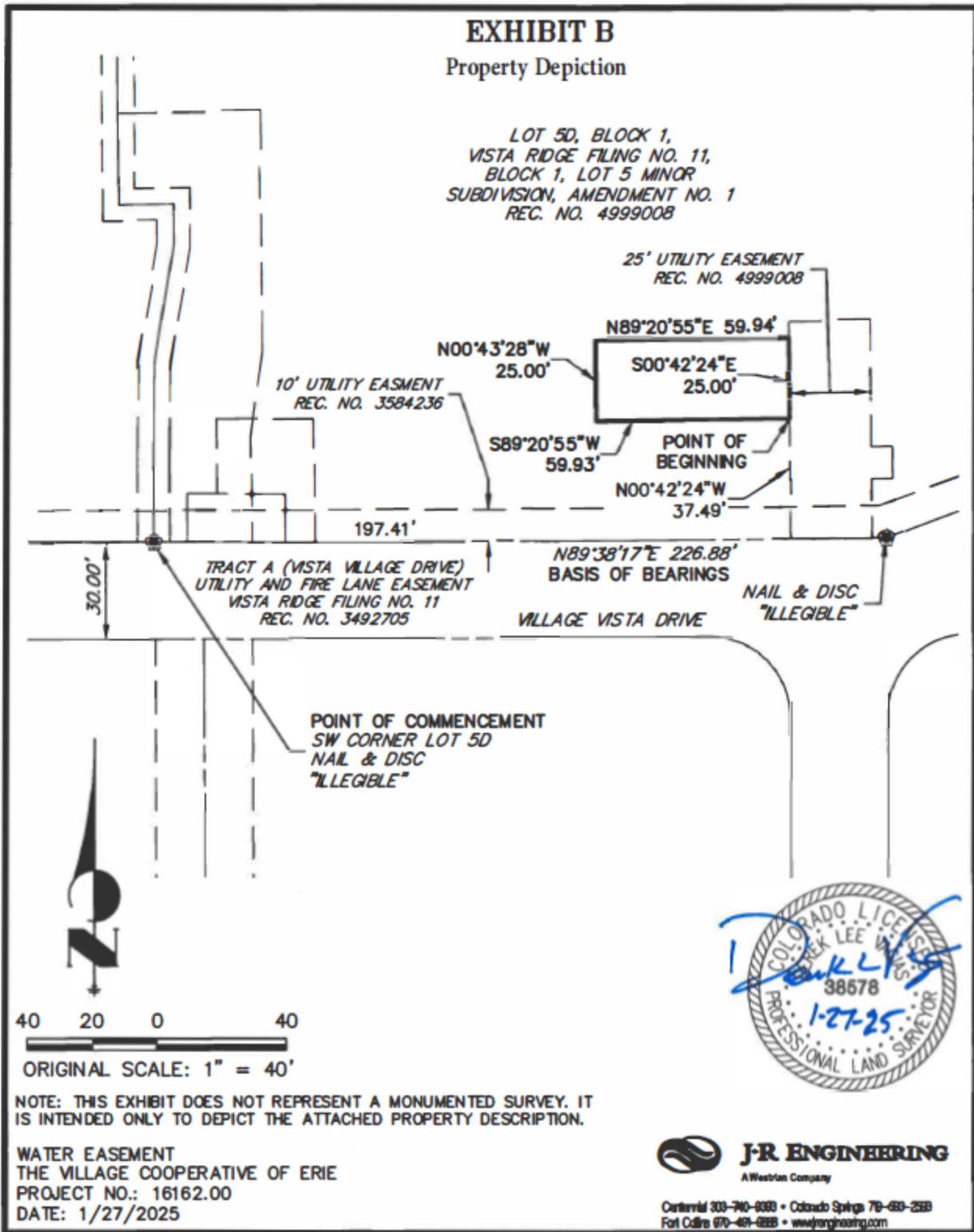
THENCE N00°43'28"W A DISTANCE OF 25.00 FEET;

THENCE N89°20'55"E A DISTANCE OF 59.94 FEET, TO A POINT ON SAID WESTERLY EASEMENT LINE;

THENCE ON SAID EASEMENT LINE, S00°42'24"E A DISTANCE OF 25.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,498 SQUARE FEET OR 0.0344 ACRES.

Exhibit B
Property Depiction and Description of Facilities



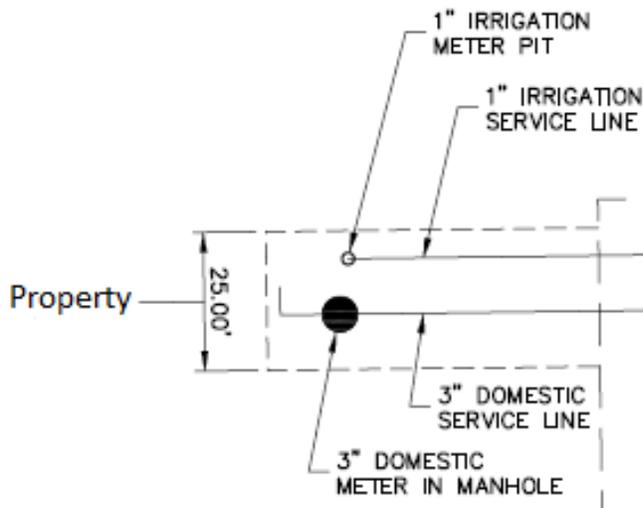
Description of Facilities

3" Domestic water service line

1" Irrigation service line

1" Irrigation meter pit

3" Domestic water meter in manhole





TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-335, **Version:** 1

SUBJECT:

Public Hearing: An Ordinance of the Town Council of the Town of Erie Amending Title 10 of the Erie Municipal Code Regarding Accessory Dwelling Units, Assembly Uses, and Minimum Parking

DEPARTMENT: Planning & Development

PRESENTER(S): Sarah Nurmela, Planning & Development Director
Kelly Driscoll, Planning Manager
Chris LaRue, Principal Planner

TIME ESTIMATE: 30 minutes

POLICY ISSUES:

Current provisions in the code are not consistent with State and federal laws. The Town Council will consider updates to the code to bring the Town into compliance.

STAFF RECOMMENDATION:

Adoption of Ordinance No. 018-2005 Amending Title 10 of the Erie Municipal Code Regarding Accessory Dwelling Units (ADUs), Assembly Uses, and Minimum Parking.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town staff identified areas of the Erie Municipal Code Title 10 - Unified Development Code (UDC) that need to be updated for consistency with existing federal law and new State legislation. These code updates include an amendment to provide clarity regarding assembly uses and alignment with recent State legislation regarding ADUs and parking requirements for certain types of residential developments near transit. The staff report and presentation contain detailed information on the proposed changes.

PLANNING COMMISSION UPDATE

The Planning Commission held a meeting on this request on May 7, 2025. The Commission heard the staff presentation, asked questions, and then voted unanimously (6-0) to recommend Town Council adopt the ordinance to amend the UDC. This was not a public hearing, so public comment was not required or provided.

Specific comments from Planning Commission included:

- In relation to ADUs, Planning Commission asked to what extent Homeowner Associations (HOAs) would be able to provide design input. An ADU will require a building permit, which are reviewed against Town code. However, Town staff do not confirm ADU review/approval by an HOA; it is the applicant's responsibility to obtain HOA approval in their respective neighborhoods. It should be noted that HB24 -1152 does apply to HOAs. Any restrictive covenant created by an HOA must conform with HB24-1152; namely, the covenant may only apply reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction, or extinguish the ability to otherwise construct an ADU. C.R.S. 38-33.3-106.5(4).
- In relation to the parking language update, Planning Commissioner Sawusch questioned whether RTD's transit service in Erie meets the parameters laid out in HB-1304 regarding transit service frequency. The law applies to, "A PUBLIC BUS ROUTE THAT HAS A PLANNED OR SCHEDULED FREQUENCY OF EVERY THIRTY MINUTES OR MORE FREQUENT FOR FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE". RTD's JUMP route schedule on Erie Parkway is only every 60 minutes for 4 hours in the morning and 5 hours in the evening, not every 30 minutes. Although the proposed code update does not include a map of transit areas in Erie, Town Transportation & Mobility staff have contacted DOLA and asked them to confirm DOLA's mapping in relation to HB-1304 accurately reflects those areas subject to HB-1304. The Ordinance is worded so that it applies to areas, "located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs." This language will accommodate any changes or updates made by DOLA.

COUNCIL PRIORITY(S) ADDRESSED:

- ✓ Engaged and Diverse Community
- ✓ Prosperous Economy
- ✓ Safe and Healthy Community
- ✓ Environmentally Sustainable
- ✓ Fiscally Responsible

ATTACHMENT(S):

1. Ordinance No. 018-2025
2. PC Resolution P25-05
3. Staff Report
4. Staff Presentation
5. HB25-1152
6. HB25-1304
7. Publication Notice

**Town of Erie
Ordinance No. 018-2025**

**An Ordinance of the Town Council of the Town of Erie Amending
Title 10 of the Erie Municipal Code Regarding Accessory Dwelling
Units, Assembly Uses, and Minimum Parking**

Whereas, the Town Council desires to amend Title 10 of the Erie Municipal Code to align with recent State law changes affecting accessory dwelling units and minimum parking requirements; and

Whereas, the Town Council desires to clarify and simplify the various assembly uses in the Town.

Now Therefore be it Ordained by the Town Council of the Town of Erie, Colorado, as follows:

Section 1. Title 10 of the Erie Municipal Code is hereby amended so that every occurrence of the term "religious assembly" or "religious assembly facilities" is replaced with the term "place of worship".

Section 2. Table 3-1 in Title 10 of the Erie Municipal Code is hereby amended to permit the Place of Worship use as a use by right in the LI, DT, and NMU districts.

Section 3. Table 3-1 in Title 10 of the Erie Municipal Code is hereby amended to delete the "Assembly" rows in their entirety.

Section 4. Section 10-3-2(D)(1) of the Erie Municipal Code is hereby amended as follows:

10-3-2 - Use-specific standards.

* * *

D. *Manufacturing and light industrial uses:*

1. *Auto wrecking, recycling, and salvage yard/junkyard:* Auto wrecking, recycling, and salvage yard/junkyards shall be located a minimum of three hundred (300) feet from any residential use, school, hospital, park, government office or community center (public) ~~place of public assembly~~.

* * *

Section 5. Section 10-3-3(D)(1) of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

10-3-3 - Accessory uses and structures.

* * *

D. *Additional standards for specific accessory uses and structures:*

1. *Accessory dwelling units:*

a. *Exception from impact fee requirements:* New ADUs shall be exempt from the requirements to pay impact fees.

b. *Standards:*

i. Each ADU shall comply with all applicable accessory structure standards, unless such standards are stricter than the standards for principal structures, in which case the ADU shall comply with the principal structure standards.

ii. Each ADU shall be subordinate to and contain less gross square footage than the principal dwelling unit on the lot on which it is located.

iii. Only one (1) ADU is permitted per lot.

iv. Each ADU shall be designed to maintain the appearance, architectural style and character of the principal dwelling unit. Exterior siding, roofing, and trim shall visually match the appearance of the materials on the principal dwelling unit. The roof style of the ADU shall visually match the predominant style of the principal dwelling unit.

c. *Prohibitions.* A manufactured home, recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as an ADU.

* * *

Section 6. Section 10-6-6(B) of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

10-6-6 - Off-street parking and loading.

* * *

B. *Applicability:*

1. This Section shall apply to any building, improvement, or use of land including any expansions, enlargements, or amendments thereto unless specifically stated otherwise in this UDC.

2. The minimum parking requirements in Table 6.6-1 shall not apply to multi-family dwellings, mixed-use projects with at least fifty percent

(50%) residential uses, and residential adaptive reuse projects when located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs.

* * *

Section 7. Table 6.6-1 in Title 10 of the Erie Municipal Code is hereby amended to delete the "Assembly" row in its entirety.

Section 8. Table 6.6-3 in Title 10 of the Erie Municipal Code is hereby amended to delete the "Assembly uses" rows in their entirety.

Section 9. Section 10-11-3 of the Erie Municipal Code is hereby amended by the addition of the following new terms, to appear in alphabetical order:

Accessory dwelling unit (ADU): A subordinate dwelling unit located on the same lot as and attached or detached from a single-family detached dwelling or single-family attached dwelling that provides basic requirements for living, sleeping, cooking, and sanitation.

Adaptive reuse: The conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

Place of worship: A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.

Section 10. Section 10-11-3 of the Erie Municipal Code is hereby amended by the deletion of the terms "Assembly building", "Dwelling unit, accessory", "General assembly", and "Religious assembly" in their entirety.

Section 11. The definition of "Community center (public)" in Section 10-11-3 of the Erie Municipal Code is hereby amended as follows:

Community center (public): A place, structure, area, or other facility used for and providing fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community, nonprofit, cultural, educational, recreational, religious, or social activities that is open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency including senior centers, teen centers, and clubhouses.

Section 12. Severability. 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 Town Council hereby declares that it would have passed this Ordinance

and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 13. Safety. The Town Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 14. Effective Date. This Ordinance shall take effect 10 days after publication following adoption.

Introduced, Read, Passed and Ordered Published this 10th day of June, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

**Town of Erie
Planning Commission
Resolution No. P25-05**

**A Resolution of the Planning Commission of the Town of Erie
Recommending that the Town Council Adopt an Ordinance Amending
Title 10 of the Erie Municipal Code Regarding Accessory Dwelling Units,
Assembly Uses, and Minimum Parking**

Whereas, the Erie Municipal Code includes terminology and regulations that no longer conform to State standards;

Whereas, the standards for assembly uses are not clear or equally applied;

Whereas, the Planning Commission finds it in the best interest of the public health, safety and welfare to amend Title 10 of the Erie Municipal Code to comply with state standards regarding Accessory Dwelling Units and parking requirements near transit, and clarify assembly use standards.

Now, Therefore be it Resolved by the Planning Commission of the Town of Erie, Colorado, that:

Section 1. Findings. The Planning Commission finds and determines that the ordinance amending Title 10 of the Erie Municipal Code, as attached hereto, meets the approval criteria as specified in Section 10-7-18(C)(9) as follows:

- a. The ordinance will promote the public health, safety, and general welfare;
- b. The ordinance is generally consistent with the Town’s comprehensive master plan and the stated purposes of the UDC; and
- c. The ordinance is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Section 2. Decision. Based on the foregoing findings, the Planning Commission hereby recommends that the Town Council adopt the ordinance as attached hereto.

Adopted this 7th day of May 2025.

Tim Burns, Chair

Attest:

Doug Trettin, Secretary

**TOWN OF ERIE
TOWN COUNCIL MEETING
June 10, 2025**

SUBJECT: **PUBLIC HEARING: Ordinance 018-2025**
An Ordinance of the Town Council of the Town of Erie
Amending Title 10 of the Erie Municipal Code Regarding
Accessory Dwelling Units, Assembly Uses, and Minimum Parking

PURPOSE: Unified Development Code amendment to provide clarity for
assembly uses, and to align with recent State legislation
regarding accessory dwelling units, and minimum parking
requirements

CODE REVIEW: Erie Municipal Code, Title 10

DEPARTMENT: Planning and Development

PRESENTER: Sarah Nurmela, Planning and Development Director
Kelly Driscoll, Planning Manager
Chris LaRue, Principal Planner

STAFF RECOMMENDATION:

Staff recommend the Town Council adopt the ordinance amending Title 10 of the Erie Municipal Code regarding accessory dwelling units, assembly uses, and minimum parking.

PLANNING COMMISSION: MAY 7, 2025

The Planning Commission held a meeting on this request on May 7, 2025. The Commission heard the staff presentation, asked questions, and then voted unanimously (6-0) to recommend Town Council adopt the ordinance to amend the Unified Development Code (UDC) as proposed. The Planning Commission's consideration of the code update was not a public hearing, so public comment was not required or provided.

Specific comments from Planning Commission included:

- In relation to accessory dwelling units (ADUs), Planning Commission asked to what extent Homeowner Associations (HOAs) would be able to provide design input. An ADU will require a building permit, which are reviewed against Town code. However, Town staff do not confirm ADU review/approval by an HOA; it is the applicant's responsibility to obtain HOA approval in their respective neighborhoods. It should be noted that HB24 -1152 does apply to HOAs. Any restrictive covenant created by an HOA must conform with HB24-

1152; namely, the covenant may only apply reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction, or extinguish the ability to otherwise construct an ADU. C.R.S. 38-33.3-106.5(4).

- In relation to the parking language update, Planning Commissioner Sawusch questioned whether RTD's transit service in Erie meets the parameters laid out in HB-1304 regarding transit service frequency. The law applies to, "A PUBLIC BUS ROUTE THAT HAS A PLANNED OR SCHEDULED FREQUENCY OF EVERY THIRTY MINUTES OR MORE FREQUENT FOR FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE". RTD's JUMP route schedule on Erie Parkway is only every 60 minutes for 4 hours in the morning and 5 hours in the evening, not every 30 minutes. Although the proposed code update does not include a map of transit areas in Erie, Town Transportation & Mobility staff have contacted DOLA and asked them to confirm DOLA's mapping in relation to HB-1304 accurately reflects those areas subject to HB-1304. The Ordinance is worded so that it applies to areas, "located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs." This language will accommodate any changes or updates made by DOLA.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town staff identified areas of the Erie Municipal Code Title 10 - Unified Development Code (UDC) that need to be updated for consistency with existing federal law and new State legislation. These code updates include an amendment to provide clarity regarding assembly uses and alignment with recent State legislation regarding ADUs and parking requirements for certain types of residential developments near transit.

The proposed amendments include:

Assembly Uses

The current code contains three types of assembly uses: General Assembly, Residential Assembly, and Religious Assembly, as defined below.

General assembly: General assembly uses include facilities owned or operated by associations, corporations, or other persons for social, educational, or recreational purposes primarily for members and their guests. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities. This use includes assembly of fraternal organizations (Elks, Lions Club, etc.)

Religious assembly: A facility used primarily for non-profit purposes to provide assembly and meeting areas for religious activities, including parking, caretaker's housing, buildings ancillary to a religious function, pastor's housing, and group living facilities such as convents.

Residential assembly: General assembly uses include facilities owned or operated by homeowner associations intended for use by the specific neighborhood or development for which it serves. Typical examples are clubhouses, indoor and outdoor gathering spaces, and common area rooms.

The Religious Land Use and Institutionalized Person Act (RLUIPA) prohibits zoning and landmarking laws that:

- treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions;
- discriminate against any assemblies or institutions on the basis of religion or religious denomination;
- totally exclude religious assemblies from a jurisdiction; or
- unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

The use table in current code treats Religious Assembly on less than equal terms in that it requires a Special Review Use (SRU) approval in some districts where Residential Assembly is allowed by-right, see below or view the code [here](#).

TABLE 3-1: TABLE OF PERMITTED USES																					
P = Permitted Use by Right S = Special Review Use Blank Cell = Prohibited																					
USE	CATEGORY	RESIDENTIAL							COMMERCIAL			INDUSTRIAL			MIXED USE			OTHER			
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	I	HI	DT	NMU	CMU	AG/OS	AGH	AP	PLI
Religious Assembly	Religious Assembly	S	S	S	S	S	S	S	P	P	P	S	S	S	S	S	P	S	S	S	P
Assembly	General Assembly								S	S	S				S	S	S	S		S	S
	Residential Assembly (HOA)	P	P	P	P	P	P	P							P	P	P				

The proposed changes simplify definitions for assembly uses by removing the terms 'General Assembly' and 'Assembly Building'; replacing 'Religious Assembly' with 'Place of Worship'; and clarifying the definition of Community Center (public). The proposed changes result in equal treatment of religious assembly.

State Legislation

In 2024, the State legislature introduced and passed laws that require the Town to make changes to the UDC. House Bill 24-1152 requires that by June 30, 2025, municipalities allow ADUs everywhere single family detached dwellings are allowed. House Bill 24-1304 requires that by June 30, 2025, municipalities not enact or enforce laws requiring minimum parking spaces within one-quarter mile of transit stops for multifamily residential, adaptive reuse for residential, or adaptive reuse for mixed use that is at least 50% residential. The following subsections give background information on the legislation and details of the proposed ordinance changes.

Accessory Dwelling Units (ADUs)

HB 24-1152 requires municipalities by June 30, 2025, to allow one ADU as an Accessory Use to a Single-unit Detached Dwelling in any area, lot, or parcel where the Single-unit Detached Dwellings are allowed. The ADU can be either internal to, attached to, or detached from the primary unit.

Single-Unit Detached Dwellings are allowed in all of Erie’s residential zoning districts (Rural Residential, Estate Residential, Suburban Residential, Low Density Residential, Medium Density Residential, High Density Residential, Old Town Residential), two mixed use districts (Downtown, Neighborhood Mixed Use), and the Agricultural Holding district.

State law requires that review processes for ADUs be an administrative process that does not include a public hearing. Approval or denial must be based on compliance with objective standards included in the code. The code may not include restrictive design or dimension standards. Additionally, minimum side setbacks cannot be larger than those for the single unit detached on the lot, and the minimum rear setback cannot be larger than what is required of other accessory structures, or five feet, whichever is greater.

These requirements apply to all lots that allow the construction of Single-Unit Detached Dwellings regardless of whether the lot or parcel is in a standard zone district, overlay zone district, or a Planned Unit Development (PUD), and regardless of whether restrictive declarations, bylaws, or rules of an HOA prevent ADUs. Over 60% of Erie’s developed areas are within PUDs or Planned Developments (PDs), many of which allow Single-Unit Detached Dwellings. State law supersedes existing PUDs/PDs from restricting ADUs and requires that new PDs allow ADUs as accessory uses subject to administrative review. HOAs may not restrict the creation of ADUs, and if their covenants contain prohibitions on ADUs, the courts will not enforce. State law does allow for HOAs to enact what it calls ‘reasonable restrictions’, defined as:

A substantive condition or requirement that does not unreasonably increase the cost to construct, effectively prohibit the construction, or extinguish the ability to otherwise construct an ADU.

The Town does not enforce, nor is it a party to, HOA covenants and restrictions.

Proposed changes for ADUs

ADUs are currently allowed by right in all districts that allow Single-Unit Detached Dwellings, see table below. No changes are necessary to the accessory use table.

TABLE 3-2: TABLE OF ACCESSORY USES AND STRUCTURES																				
ACCESSORY USE/ STRUCTURE	P=Permitted Use By Right							S=Special Review Use			Blank=Not Permitted					OTHER				
	RESIDENTIAL							COMMERCIAL			INDUSTRIAL			MIXED-USE						
	RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	I	HI	DT	NM	CM	AG/ OS	AGH	AP	PLI
Accessory dwelling unit	P	P	P	P	P	P	P							P	P	P		P		

Section 10-3-3 outlines current standards for ADUs, some of which do not comply with State legislation. The current regulations that are out of compliance include:

- Square footage limitations
- Minimum lot size of 6,000 square feet
- Select design standards

The proposed code update eliminates the square footage cap, and requires the structure be subordinate and smaller than the principal. The 6,000 square-foot lot minimum is also removed. Additionally, the proposed changes align side and rear setbacks and design standards with the State law.

Minimum Parking Requirements

HB 24-1304 prohibits local governments from enacting or enforcing Minimum Parking Requirements on multifamily housing developments within one-quarter of a mile of mapped transit areas. The prohibition applies to all new multifamily residential developments, regardless of whether it is a freestanding residential building or part of a mixed-use building or development that also contains some non-residential uses. In addition, the prohibition applies to Adaptive Reuse of an existing building for completely residential purposes, and to Adaptive Reuse of an existing building for a mix of uses in which at least 50% of the resulting use is residential. Of note, the law does not prohibit residential or mixed-use developers from including off-street parking, only municipalities from requiring parking as a part of zoning regulations.

The following municipalities and counties are subject to this state law.

Arvada	Erie	Lakeside	Thornton
Aurora	Evans	Lakewood	Westminster
Boulder	Federal Heights	Littleton	Wheat Ridge
Broomfield	Fort Collins	Lone Tree	Adams County
Centennial	Fountain	Longmont	Arapahoe County
Cherry Hills Village	Foxfield	Louisville	Boulder County
Colorado Springs	Garden City	Loveland	Douglas County
Columbine Valley	Glendale	Manitou Springs	El Paso County
Commerce City	Golden	Mountain View	Jefferson County
Denver	Greeley	Northglenn	Larimer County
Edgewater	Greenwood Village	Pueblo	Pueblo County
Englewood	Lafayette	Sheridan	Weld County
		Superior	

The Department of Local Affairs (DOLA) was tasked with mapping the transit areas in applicable areas. The following figures illustrate the two currently mapped areas within Erie.

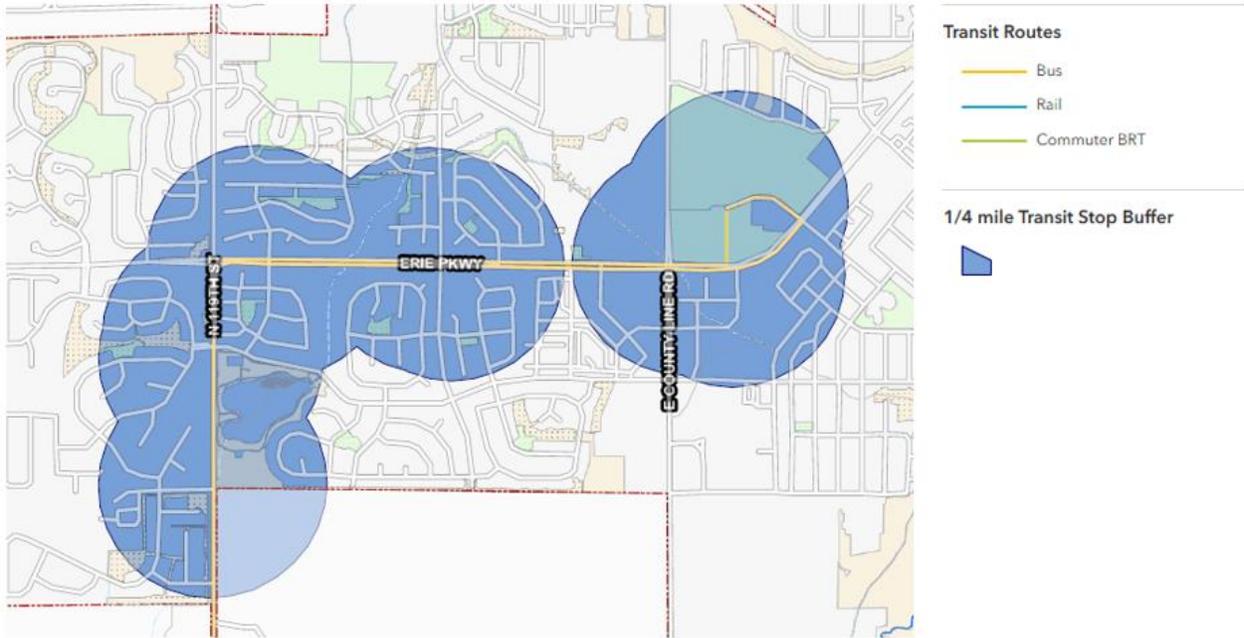


Figure 1: Erie Parkway

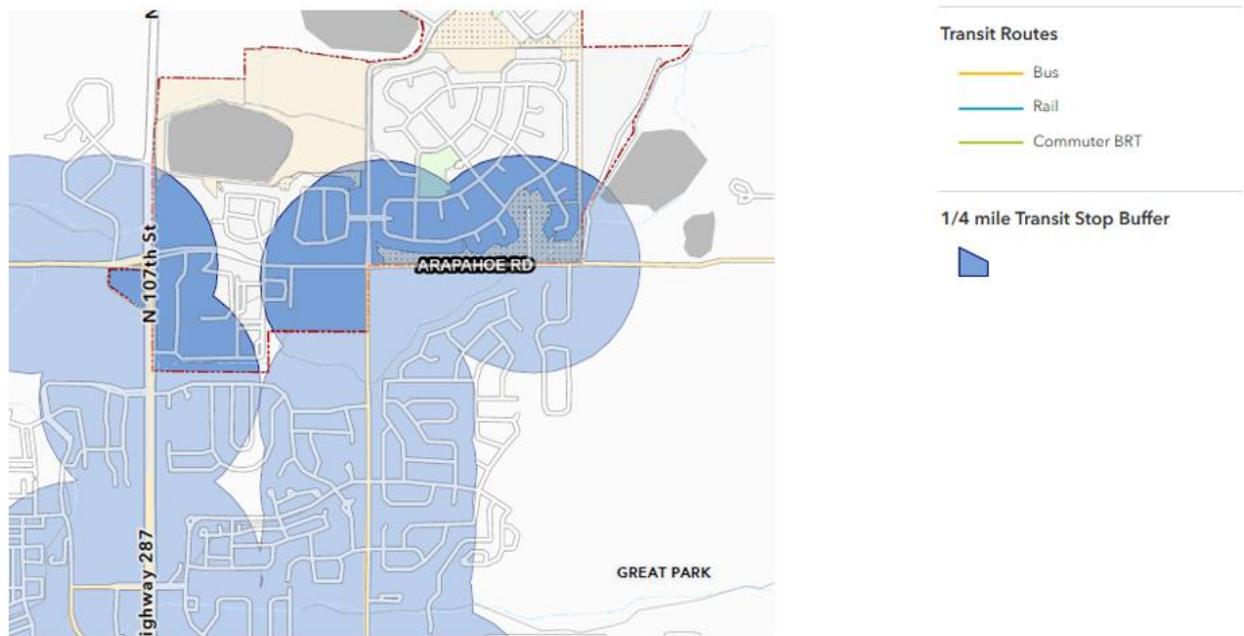


Figure 2: Arapahoe Road

As noted above, Town staff are working with DOLA to determine if RTD's transit service in Erie meets the parameters laid out in HB-1304 regarding transit service frequency. The Ordinance is worded so that it applies to areas, "located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs." This language will accommodate any changes or updates made by DOLA.

Developers can still choose to provide parking. If they do, the Town can regulate by:

- Requiring those parking spaces to include the same number of spaces for persons with disabilities that would be required under the Americans with Disabilities Act.
- Requiring that those spaces include the number and type of electric vehicle charging spaces required by the Colorado Model Electric Ready and Solar Ready Code developed pursuant to HB22-1362.
- Imposing a Maximum Parking Requirement limiting the amount of off-street parking spaces voluntarily provided.
- Requiring the developer to charge for the use of those parking spaces (i.e., not make them available free of charge to residents, businesses, or patrons of the development).
- Requiring the developer to contribute to a parking enterprise, parking permitting system, or a shared parking plan.

Erie's code currently has a maximum of 125% of the required minimum. The Town does not currently have a parking permitting or enterprise system. The law further clarifies that enforcement of minimums for bicycle parking is allowed. As is compliance with parking requirements related to affordable housing funding.

Proposed changes for Minimum Parking

The proposed changes add the following definition of Adaptive reuse:

The conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

The changes also include a provision to Section 10-6-6 – Off street Parking and Loading stating that off-street parking requirements shall not apply to multi-family dwellings, mixed-use projects with at least 50% residential uses, and residential adaptive reuse projects located within one-quarter mile of a transit service area as established by Colorado Department of Local Affairs.

Approval Criteria

Section 10-7-18(C)(9) of the Erie Municipal Code states the following approval criteria when considering amendments to the text of the UDC:

1. The proposed amendment will promote the public health, safety, and general welfare; and
2. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Staff finds these amendments are necessary because of changing conditions created by the State legislature, and to comply with RLUIPA and recommends that the Town Council adopt an ordinance amending Title 10 of the Erie Municipal Code regarding accessory dwelling units, assembly uses, and Minimum Parking.

Attachments

1. Ordinance No. 018-2025
2. PC Resolution P25-05
3. Staff Report
4. Staff Presentation
5. HB24-1152
6. HB24-1304



Proposed UDC Changes to Title 10

Town Council

Sarah Nurmela, Planning and Development Director

Kelly Driscoll, Planning Manager

Chris LaRue, Principal Planner

June 10, 2025



Request

Amendments to Title 10 regarding

- Assembly Uses
- Accessory Dwelling Units
- Minimum Parking



Overview

- **Background**
- Proposal
- Decision



Background

Staff identified a conflict with how assembly uses are regulated in the UDC and the Religious Land Use and Institutionalized Person Act (RLUIPA)

AND

2024 State Legislative Session requires consistency with:

- HB 24-1152: Accessory Dwelling Units
- HB 24-1304: Minimum Parking Requirements



Assembly Uses

Religious Land Use and Institutionalized Person Act (RLUIPA) prohibits zoning and landmarking laws that:

- treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions;
- discriminate against any assemblies or institutions on the basis of religion or religious denomination;
- totally exclude religious assemblies from a jurisdiction; or
- unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.



Assembly Uses – § 10-3-1

USE	CATEGORY	RESIDENTIAL							COMMERCIAL			INDUSTRIAL			MIXED USE			OTHER			
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	I	HI	DT	NM U	CM U	AG/ OS	AG H	AP	PLI
Religious Assembly	Religious Assembly	S	S	S	S	S	S	S	P	P	P	S	S	S	S	S	P	S	S	S	P
Assembly	General Assembly								S	S	S				S	S	S	S		S	S
	Residential Assembly (HOA)	P	P	P	P	P	P	P							P	P	P				



Proposal – Assembly Uses

- **Simplify definitions**
 - Add Place of Worship
 - Remove General Assembly, Residential Assembly, and Assembly Building
 - Clarify Community Center (public)

Community center (public): A place, structure, area, or other facility used for and ~~providing fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community,~~ nonprofit, cultural, educational, recreational, religious, or social activities that is open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency including senior centers, teen centers, and clubhouses.



Proposal – Assembly Uses

	RESIDENTIAL							COMMERCIAL			INDUSTRIAL			MIXED USE			OTHER			
USE	RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	I	HI	DT	NMU	CMU	AG/ OS	AGH	AP	PLI
Community Center (public)	S	S	S	S	S	S	S	P	P	P	P			P	P	P	S		S	P
Place of Worship	S	S	S	S	S	S	S	P	P	P	P	S	S	P	P	P	S	S	S	P



2024 State Legislative Session

- HB 24-1152: Accessory Dwelling Units
- HB 24-1304: Minimum Parking Requirements



HB 24-1152: Accessory Dwelling Units

- By June 30, 2025, must allow ADUs where single-family detached dwellings are allowed
- Required provisions for administrative approval and parking
- ADU size and setbacks
- Requirements in the law also apply to and supersede planned unit developments (PUDs) and homeowners associations (HOAs)



Proposal – Accessory Dwelling Units

- Align definition of ADU with State regs
- One ADU per lot
- Comply with accessory structure standards, unless they are stricter than principal structure standards
- ADU must be subordinate and less gross square footage than the principal dwelling unit
- Maintain appearance, architectural style, siding, roofing, trim, and roof style of principal structure
- Manufactured home, RV, travel trailer, camper are not allowed as ADUs

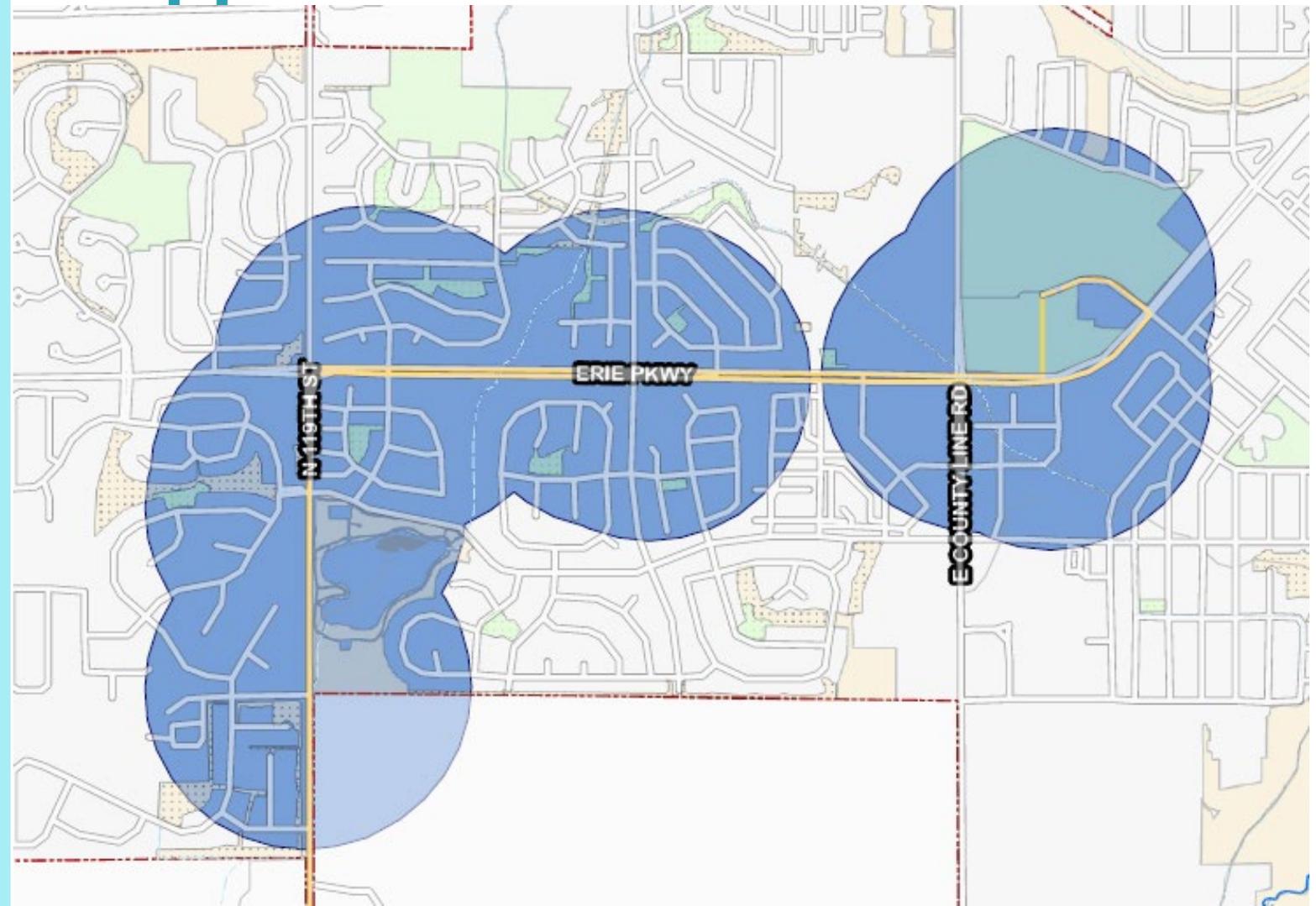


HB 24-1304: Minimum Parking Requirements

By June 30, 2025, within one-quarter mile of transit stops, applicable municipalities must not enact or enforce laws requiring minimum parking for:

- multifamily residential,
- adaptive reuse for residential,
- or adaptive reuse for mixed use that is at least 50% residential

HB 24-1304: Applicable Transit Service Areas in Erie



Transit Routes

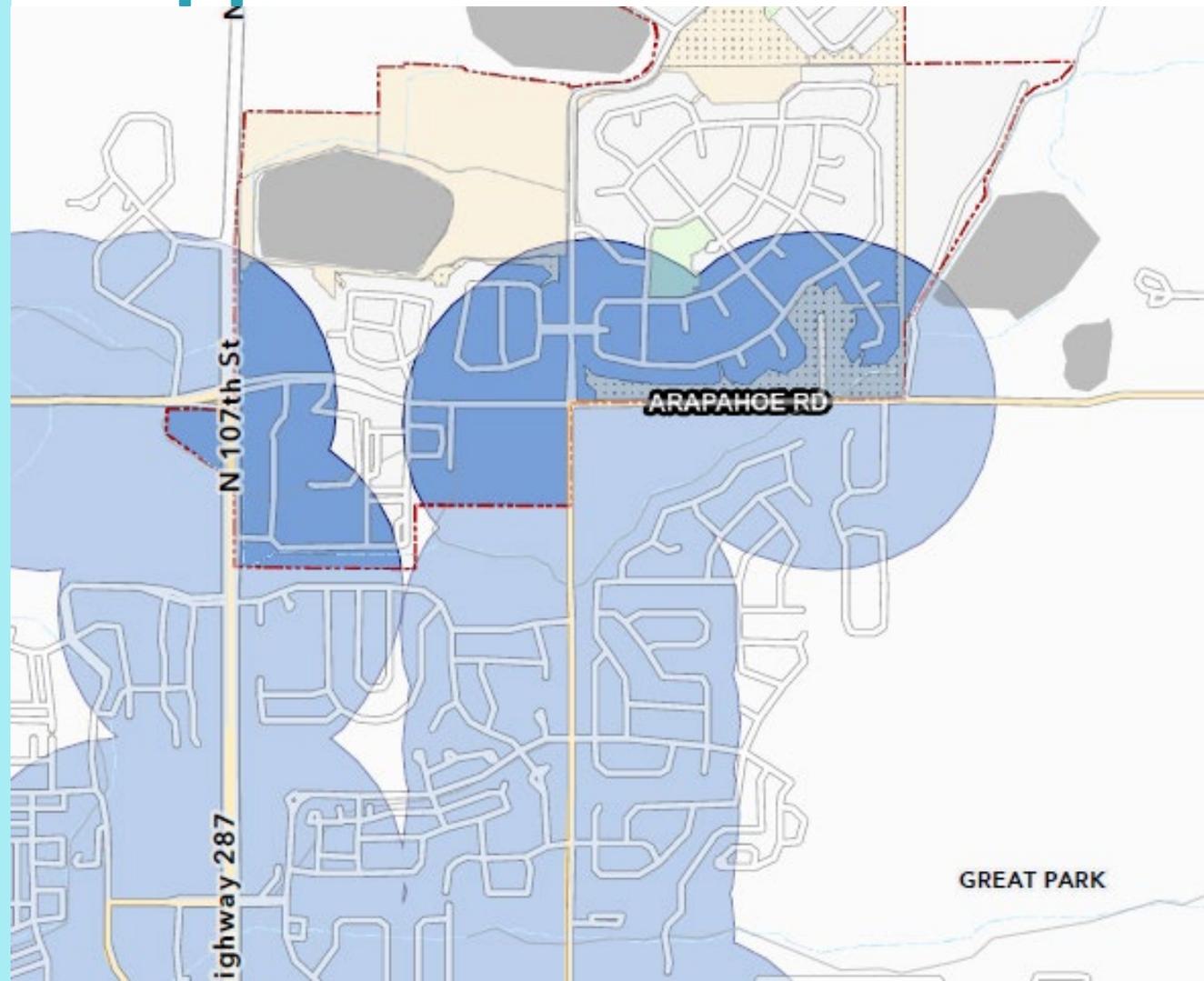
- Bus
- Rail
- Commuter BRT

1/4 mile Transit Stop Buffer





HB 24-1304: Applicable Transit Service Areas in Erie



Transit Routes

- Bus
- Rail
- Commuter BRT

1/4 mile Transit Stop Buffer





Proposal – Minimum Parking Requirements

- Added definition for Adaptive Reuse
- 10-6-6 – Off street parking and loading
 - Minimum parking requirements shall not apply to multi-family dwellings, mixed-use projects with at least fifty percent (50%) residential uses, and residential adaptive reuse projects when located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs
 - Staff has asked DOLA to confirm their maps are accurate.



Overview

- ✓ Background
- ✓ Proposal
- **Decision**



Approval Criteria – 10-7-18

- a. The proposed amendment will promote the public health, safety, and general welfare;
- b. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and
- c. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.



Public Notice

Neighborhood Meeting: Not Applicable for UDC amendments

Posting: Not Applicable for UDC amendments

PUBLIC NOTICE OF HEARING

Public Hearing is required for UDC changes for Town Council

Notice of hearing was published 5/21



Staff Recommendation

Adoption of Ordinance 018-2025

Recommending the Town Council Adopt an Ordinance Amending Title 10 of the Erie Municipal Code Regarding Accessory Dwelling Units, Assembly Uses, and Minimum Parking



Proposed UDC Changes to Title 10,

Town Council

Sarah Nurmela, Planning and Development Director

Kelly Driscoll, Planning Manager

Chris LaRue, Principal Planner

June 10, 2025

An Act

HOUSE BILL 24-1152

BY REPRESENTATIVE(S) Amabile and Weinberg, Bacon, Boesenecker, Epps, Froelich, Garcia, Jodeh, Kipp, Lindsay, Lindstedt, Mabrey, McCormick, Ortiz, Ricks, Rutinel, Sirota, Story, Valdez, Vigil, Willford, Woodrow, McCluskie, English, Herod, Martinez, McLachlan, Parenti, Weissman;
also SENATOR(S) Mullica and Exum, Cutter, Hinrichsen, Priola, Roberts, Winter F.

CONCERNING INCREASING THE NUMBER OF ACCESSORY DWELLING UNITS,
AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 35 to title 29 as follows:

ARTICLE 35

State Land Use Criteria For Strategic Growth

PART 1

ACCESSORY DWELLING UNITS

29-35-101. Legislative declaration. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(I) ACCESSORY DWELLING UNITS OFFER A WAY TO PROVIDE COMPACT, RELATIVELY AFFORDABLE HOUSING IN ESTABLISHED NEIGHBORHOODS WITH MINIMAL IMPACTS TO INFRASTRUCTURE AND TO SUPPLY NEW HOUSING OPPORTUNITIES WITHOUT ADDED DISPERSED LOW-DENSITY HOUSING;

(II) ACCESSORY DWELLING UNITS GENERATE RENTAL INCOME TO HELP HOMEOWNERS COVER MORTGAGE PAYMENTS OR OTHER COSTS, WHICH CAN BE IMPORTANT FOR A VARIETY OF RESIDENTS, SUCH AS OLDER HOMEOWNERS ON FIXED INCOMES AND LOW- AND MODERATE-INCOME HOMEOWNERS;

(III) ACCESSORY DWELLING UNITS PROVIDE FAMILIES WITH OPTIONS FOR INTERGENERATIONAL LIVING ARRANGEMENTS THAT ENABLE CHILD OR ELDER CARE AND AGING IN PLACE, AND A 2021 SURVEY BY THE AARP FOUND THAT APPROXIMATELY SEVENTY-FIVE PERCENT OF PEOPLE FIFTY YEARS OF AGE OR OLDER WANT TO STAY IN THEIR HOMES OR COMMUNITIES FOR AS LONG AS THEY CAN. ACCORDING TO A 2018 STUDY BY THE CENTER FOR AMERICAN PROGRESS, FIFTY-ONE PERCENT OF COLORADANS LIVE IN A CHILD CARE DESERT-A COMMUNITY WHERE THERE ARE NO CHILD CARE PROVIDERS OR SO FEW OPTIONS THAT THERE ARE MORE THAN THREE TIMES AS MANY CHILDREN AS THERE ARE LICENSED CHILD CARE SLOTS. THESE CHILD CARE DESERTS ARE SITUATED WITHIN RURAL, SUBURBAN, AND URBAN COMMUNITIES AND ARE A MAJOR REASON FOR WORKING PARENTS TO LEAVE THE WORKFORCE.

(IV) ACCESSORY DWELLING UNITS ARE OFTEN OCCUPIED AT LOW TO NO RENT BY FAMILY MEMBERS, AND IF THEY ARE RENTED PRIVATELY, THEIR RENTS ARE RELATIVELY AFFORDABLE BECAUSE OF THEIR SMALL SIZE;

(V) AS COLORADO'S POPULATION AGES AND TYPICAL HOUSEHOLD SIZE CONTINUES TO DECREASE, ACCESSORY DWELLING UNITS OFFER MORE COMPACT HOUSING OPTIONS THAT ALIGN WITH THE STATE'S CHANGING DEMOGRAPHICS, AND COLORADANS OVER SIXTY-FIVE YEARS OF AGE ARE THE FASTEST-GROWING AGE COHORT IN COLORADO ACCORDING TO THE STATE DEMOGRAPHY OFFICE;

(VI) ACCESSORY DWELLING UNITS ENABLE SENIORS TO DOWNSIZE, MOVE INTO ACCESSIBLE UNITS, OR LIVE WITH FAMILY OR A CAREGIVER WHILE

REMAINING IN THEIR COMMUNITIES. A 2018 AARP SURVEY FOUND THAT SIXTY-SEVEN PERCENT OF ADULTS WOULD CONSIDER LIVING IN AN ACCESSORY DWELLING UNIT TO BE CLOSE TO SOMEONE BUT STILL HAVE A SEPARATE SPACE. MOST SENIORS DO NOT LIVE IN HOMES THAT ARE ACCESSIBLE, EVEN THOUGH DISABILITY IS PREVALENT AMONG THE SENIOR POPULATION AND INCREASES WITH AGE. LESS THAN FOUR PERCENT OF EXISTING HOUSING UNITS IN THE UNITED STATES ARE ESTIMATED TO BE LIVABLE FOR PEOPLE WITH MODERATE MOBILITY DIFFICULTIES, ACCORDING TO "HOUSING FOR AN AGING POPULATION" IN THE JOURNAL HOUSING POLICY DEBATE.

(VII) RELATIVE TO DISPERSED, LOW-DENSITY DEVELOPMENT, COMPACT INFILL DEVELOPMENT, INCLUDING ACCESSORY DWELLING UNIT DEVELOPMENT, REDUCES WATER USE, GREENHOUSE GAS EMISSIONS, INFRASTRUCTURE COSTS, AND HOUSEHOLD ENERGY AND TRANSPORTATION COSTS;

(VIII) ACCESSORY DWELLING UNITS USE SIGNIFICANTLY LESS ENERGY FOR HEATING AND COOLING THAN SINGLE-UNIT DETACHED DWELLINGS BECAUSE OF THEIR SMALLER SIZE, WHICH REDUCES HOUSEHOLD ENERGY COSTS AND GREENHOUSE GAS EMISSIONS. ACCESSORY DWELLING UNITS CAN REDUCE LIFETIME CARBON DIOXIDE EMISSIONS BY FORTY PERCENT COMPARED TO MEDIUM-SIZED SINGLE-FAMILY HOMES, ACCORDING TO A REPORT FROM THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY. REDUCING EMISSIONS FROM THE HOUSING SECTOR IS CRITICAL FOR MEETING THE STATE'S GREENHOUSE GAS EMISSIONS TARGETS ESTABLISHED IN SECTION 25-7-102. ACCORDING TO "THE CARBON FOOTPRINT OF HOUSEHOLD ENERGY USE IN THE UNITED STATES" IN THE PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES, REDUCING FLOOR SPACE PER CAPITA IS A CRITICAL STRATEGY TO REACHING MID-CENTURY CLIMATE GOALS.

(IX) COMPACT INFILL DEVELOPMENT REDUCES WATER DEMAND AND INFRASTRUCTURE COSTS BY USING LESS PIPING, WHICH REDUCES WATER LOSS; INCLUDES LESS LANDSCAPED SPACE PER UNIT; AND MAKES BETTER USE OF EXISTING INFRASTRUCTURE.

(X) ACCESSORY DWELLING UNITS REDUCE GOVERNMENT CAPITAL AND MAINTENANCE COSTS FOR INFRASTRUCTURE SINCE ACCESSORY DWELLING UNITS ARE BUILT IN EXISTING NEIGHBORHOODS AND HAVE A RELATIVELY SMALL IMPACT ON EXISTING INFRASTRUCTURE. NATIONAL

STUDIES SUCH AS "RELATIONSHIPS BETWEEN DENSITY AND PER CAPITA MUNICIPAL SPENDING IN THE UNITED STATES", PUBLISHED IN URBAN SCIENCE, HAVE FOUND THAT LOWER DENSITY COMMUNITIES HAVE HIGHER GOVERNMENT CAPITAL AND MAINTENANCE COSTS FOR WATER, SEWER, AND TRANSPORTATION INFRASTRUCTURE AND LOWER PROPERTY AND SALES TAX REVENUE. THESE INCREASED COSTS ARE OFTEN BORNE BY BOTH STATE AND LOCAL GOVERNMENTS.

(XI) A NUMBER OF LOCAL LAND USE LAWS PROHIBIT HOMEOWNERS FROM BUILDING AN ACCESSORY DWELLING UNIT, OR APPLY REGULATIONS TO ACCESSORY DWELLING UNITS THAT SIGNIFICANTLY LIMIT THEIR CONSTRUCTION;

(XII) A NUMBER OF MUNICIPALITIES HAVE REMOVED BARRIERS TO ACCESSORY DWELLING UNIT CONSTRUCTION SUCH AS PARKING REQUIREMENTS, OWNER OCCUPANCY REQUIREMENTS, AND RESTRICTIVE SIZE AND DESIGN LIMITATIONS, WHICH HAS RESULTED IN ACCESSORY DWELLING UNIT PERMITS INCREASING TO TEN TO TWENTY PERCENT OF TOTAL NEW HOUSING PERMITS AND AN OVERALL INCREASE IN THE TOTAL HOUSING SUPPLY. SINCE CALIFORNIA IMPLEMENTED VARIOUS REFORMS TO ENCOURAGE ACCESSORY DWELLING UNIT CONSTRUCTION, INCLUDING REQUIRING CITIES TO ALLOW ACCESSORY DWELLING UNITS AS A USE BY RIGHT, PREVENTING THE IMPOSITION OF PARKING REQUIREMENTS, AND PREVENTING OWNER OCCUPANCY REQUIREMENTS, ACCESSORY DWELLING UNIT CONSTRUCTION HAS INCREASED SIGNIFICANTLY IN CALIFORNIA. FOLLOWING REFORMS TO CALIFORNIA'S ACCESSORY DWELLING UNIT LAW IN 2016, ACCESSORY DWELLING UNIT DEVELOPMENT HAS INCREASED RAPIDLY FROM AROUND ONE THOUSAND ACCESSORY DWELLING UNITS PERMITTED IN 2016 TO OVER TWENTY-FOUR THOUSAND IN 2022, OR ABOUT TWENTY PERCENT OF NEW HOUSING PERMITS STATEWIDE, ACCORDING TO DATA FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND ANALYSIS BY THE BIPARTISAN POLICY CENTER.

(XIII) HOUSING SUPPLY IMPACTS HOUSING AFFORDABILITY, AND HOUSING PRICES ARE TYPICALLY HIGHER WHEN HOUSING SUPPLY IS RESTRICTED BY LOCAL LAND USE REGULATIONS IN A METROPOLITAN REGION, ACCORDING TO THE NATIONAL BUREAU OF ECONOMIC RESEARCH IN WORKING PAPERS SUCH AS "REGULATION AND HOUSING SUPPLY", "THE IMPACT OF ZONING ON HOUSING AFFORDABILITY", AND "THE IMPACT OF LOCAL RESIDENTIAL LAND USE RESTRICTIONS ON LAND VALUES ACROSS

AND WITHIN SINGLE FAMILY HOUSING MARKETS";

(XIV) INCREASING HOUSING SUPPLY MODERATES PRICE INCREASES AND IMPROVES HOUSING AFFORDABILITY ACROSS ALL INCOMES, ACCORDING TO STUDIES SUCH AS "THE ECONOMIC IMPLICATIONS OF HOUSING SUPPLY" IN THE JOURNAL OF ECONOMIC PERSPECTIVES AND "SUPPLY SKEPTICISM: HOUSING SUPPLY AND AFFORDABILITY" IN THE JOURNAL HOUSING POLICY DEBATE;

(XV) ACADEMIC RESEARCH SUCH AS "THE IMPACT OF BUILDING RESTRICTIONS ON HOUSING AFFORDABILITY" IN THE FEDERAL RESERVE BANK OF NEW YORK ECONOMIC POLICY REVIEW HAS IDENTIFIED ZONING AND OTHER LAND USE CONTROLS AS A PRIMARY DRIVER OF RISING HOUSING COSTS IN THE MOST EXPENSIVE HOUSING MARKETS;

(XVI) ACCESSORY DWELLING UNITS OFFER AFFORDABLE AND ATTAINABLE OPTIONS TO LIVE IN HIGH-OPPORTUNITY NEIGHBORHOODS, WHICH CAN HELP IMPROVE EQUITY OUTCOMES REGIONALLY AND STATEWIDE. AN ANALYSIS OF ACCESSORY DWELLING UNIT PERMITTING IN CALIFORNIA FOUND THAT ACCESSORY DWELLING UNITS ARE TYPICALLY PERMITTED ON PARCELS WITH RELATIVELY GOOD ACCESS TO JOBS COMPARED TO SURROUNDING AREAS, ACCORDING TO "WHERE WILL ACCESSORY DWELLING UNITS SPROUT UP WHEN A STATE LETS THEM GROW? EVIDENCE FROM CALIFORNIA" IN CITYSCAPE: A JOURNAL OF POLICY DEVELOPMENT AND RESEARCH.

(XVII) LOCAL GOVERNMENT REGULATION OF ACCESSORY DWELLING UNITS VARIES SIGNIFICANTLY WITHIN REGIONS AND STATEWIDE IN COLORADO IN TERMS OF WHERE THEY ARE ALLOWED, THE DIMENSIONAL AND DESIGN RESTRICTIONS APPLIED, AND OTHER REQUIREMENTS. THIS INCONSISTENCY INHIBITS THE DEVELOPMENT OF A ROBUST MARKET OF ACCESSORY DWELLING UNIT DEVELOPERS, MODULAR ACCESSORY DWELLING UNIT DESIGNS, AND ASSOCIATED COST REDUCTIONS. COLORADO IS SIMILAR TO MOST STATES IN THIS REGARD, AND, ACCORDING TO "ZONING BY A THOUSAND CUTS" IN THE PEPPERDINE LAW REVIEW, WHICH ANALYZED ACCESSORY DWELLING UNIT REGULATIONS ACROSS CONNECTICUT, "THE HIGH DEGREE OF REGULATORY VARIATION THWARTS THE DEVELOPMENT OF PROTOTYPE DESIGNS OR PREFABRICATED [ACCESSORY DWELLING UNITS] THAT COULD SATISFY DIFFERENT RULES ACROSS JURISDICTIONS".

(XVIII) MORE PERMISSIVE REGULATION BY LOCAL GOVERNMENTS OF ACCESSORY DWELLING UNITS PROVIDES A REASONABLE CHANCE FOR HOMEOWNERS TO CONSTRUCT OR CONVERT AN ACCESSORY DWELLING UNIT AND THEREBY INCREASE HOUSING SUPPLY, STABILIZE HOUSING COSTS, AND CONTRIBUTE TO AFFORDABLE AND EQUITABLE HOME OWNERSHIP TO ADEQUATELY MEET THE HOUSING NEEDS OF A GROWING COLORADO POPULATION.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT INCREASING THE HOUSING SUPPLY THROUGH THE CONSTRUCTION OR CONVERSION OF ACCESSORY DWELLING UNITS IS A MATTER OF MIXED STATEWIDE AND LOCAL CONCERN.

29-35-102. Definitions. AS USED IN THIS PART 1, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCESSIBLE UNIT" MEANS A HOUSING UNIT THAT:

(a) SATISFIES THE REQUIREMENTS OF THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED;

(b) INCORPORATES UNIVERSAL DESIGN; OR

(c) IS EITHER A TYPE A DWELLING UNIT, AS DEFINED IN SECTION 9-5-101 (10), OR A TYPE B DWELLING UNIT, AS DEFINED IN SECTION 9-5-101 (12).

(2) "ACCESSORY DWELLING UNIT" MEANS AN INTERNAL, ATTACHED, OR DETACHED DWELLING UNIT THAT:

(a) PROVIDES COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE INDIVIDUALS;

(b) IS LOCATED ON THE SAME LOT AS A PROPOSED OR EXISTING PRIMARY RESIDENCE; AND

(c) INCLUDES FACILITIES FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION.

(3) "ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION" MEANS

A LOCAL GOVERNMENT THAT THE DEPARTMENT HAS CERTIFIED PURSUANT TO SECTION 29-35-104 AS AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION.

(4) "ACCESSORY USE" MEANS A STRUCTURE OR THE USE OF A STRUCTURE ON THE SAME LOT WITH, AND OF A NATURE CUSTOMARILY INCIDENTAL AND SUBORDINATE TO, THE PRINCIPAL STRUCTURE OR USE OF THE STRUCTURE.

(5)(a) "ADMINISTRATIVE APPROVAL PROCESS" MEANS A PROCESS IN WHICH:

(I) A DEVELOPMENT PROPOSAL FOR A SPECIFIED PROJECT IS APPROVED, APPROVED WITH CONDITIONS, OR DENIED BY LOCAL GOVERNMENT ADMINISTRATIVE STAFF BASED SOLELY ON ITS COMPLIANCE WITH OBJECTIVE STANDARDS SET FORTH IN LOCAL LAWS; AND

(II) DOES NOT REQUIRE, AND CANNOT BE ELEVATED TO REQUIRE, A PUBLIC HEARING, A RECOMMENDATION, OR A DECISION BY AN ELECTED OR APPOINTED PUBLIC BODY OR A HEARING OFFICER.

(b) NOTWITHSTANDING SUBSECTION (5)(a) OF THIS SECTION, AN ADMINISTRATIVE APPROVAL PROCESS MAY REQUIRE AN APPOINTED HISTORIC PRESERVATION COMMISSION TO MAKE A DECISION, OR TO MAKE A RECOMMENDATION TO LOCAL GOVERNMENT ADMINISTRATIVE STAFF, REGARDING A DEVELOPMENT APPLICATION INVOLVING A PROPERTY THAT THE LOCAL GOVERNMENT HAS DESIGNATED AS A HISTORIC PROPERTY, PROVIDED THAT:

(I) THE STATE HISTORIC PRESERVATION OFFICE WITHIN HISTORY COLORADO HAS DESIGNATED THE LOCAL GOVERNMENT AS A CERTIFIED LOCAL GOVERNMENT; AND

(II) THE APPOINTED HISTORIC PRESERVATION COMMISSION'S DECISION OR RECOMMENDATION IS BASED ON STANDARDS EITHER SET FORTH IN LOCAL LAW OR ESTABLISHED BY THE SECRETARY OF THE INTERIOR OF THE UNITED STATES.

(6) "COUNTY" MEANS A COUNTY, INCLUDING A HOME RULE COUNTY BUT EXCLUDING A CITY AND COUNTY.

(7) "DEPARTMENT" MEANS THE DEPARTMENT OF LOCAL AFFAIRS.

(8) "DWELLING UNIT" MEANS A SINGLE UNIT PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE INDIVIDUALS, INCLUDING PERMANENT FACILITIES FOR COOKING, EATING, LIVING, SANITATION, AND SLEEPING.

(9) "EXEMPT PARCEL" MEANS A PARCEL THAT IS:

(a) NOT SERVED BY A DOMESTIC WATER AND SEWAGE TREATMENT SYSTEM, AS DEFINED IN SECTION 24-65.1-104 (5), OR IS SERVED BY A WELL WITH A PERMIT THAT CANNOT SUPPLY AN ADDITIONAL DWELLING UNIT;

(b) A HISTORIC PROPERTY THAT IS NOT WITHIN A HISTORIC DISTRICT;
OR

(c) IN A FLOODWAY OR IN A ONE HUNDRED YEAR FLOODPLAIN, AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

(10) "HISTORIC DISTRICT" MEANS A DISTRICT ESTABLISHED BY LOCAL LAW THAT MEETS THE DEFINITION OF "DISTRICT" SET FORTH IN 36 CFR 60.3 (d).

(11) "HISTORIC PROPERTY" MEANS A PROPERTY LISTED:

(a) ON THE NATIONAL REGISTER OF HISTORIC PLACES;

(b) ON THE COLORADO STATE REGISTER OF HISTORIC PROPERTIES; OR

(c) AS A CONTRIBUTING STRUCTURE OR HISTORIC LANDMARK BY A CERTIFIED LOCAL GOVERNMENT, AS DEFINED IN SECTION 39-22-514.5 (2)(b).

(12) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY, COUNTY, OR TRIBAL NATION WITH JURISDICTION IN COLORADO.

(13) "LOCAL LAW" MEANS ANY CODE, LAW, ORDINANCE, POLICY, REGULATION, OR RULE ENACTED BY A LOCAL GOVERNMENT THAT GOVERNS THE DEVELOPMENT AND USE OF LAND, INCLUDING LAND USE CODES, ZONING CODES, AND SUBDIVISION CODES.

(14) "LOW- AND MODERATE-INCOME HOUSEHOLD" MEANS A HOUSEHOLD THAT IS CONSIDERED LOW-, MODERATE-, OR MEDIUM-INCOME, AS DETERMINED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(15) "METROPOLITAN PLANNING ORGANIZATION" MEANS A METROPOLITAN PLANNING ORGANIZATION UNDER THE "FEDERAL TRANSIT ACT OF 1998", 49 U.S.C. SEC. 5301 ET SEQ., AS AMENDED.

(16) "MUNICIPALITY" MEANS A HOME RULE OR STATUTORY CITY OR TOWN, TERRITORIAL CHARTER CITY OR TOWN, OR CITY AND COUNTY.

(17) "OBJECTIVE STANDARD" MEANS A STANDARD THAT:

(a) IS A DEFINED BENCHMARK OR CRITERION THAT ALLOWS FOR DETERMINATIONS OF COMPLIANCE TO BE CONSISTENTLY DECIDED REGARDLESS OF THE DECISION MAKER; AND

(b) DOES NOT REQUIRE A SUBJECTIVE DETERMINATION CONCERNING A DEVELOPMENT PROPOSAL, INCLUDING BUT NOT LIMITED TO WHETHER THE APPLICATION FOR THE DEVELOPMENT PROPOSAL IS:

(I) CONSISTENT WITH MASTER PLANS, OR OTHER DEVELOPMENT PLANS;

(II) COMPATIBLE WITH THE LAND USE OR DEVELOPMENT OF THE AREA SURROUNDING THE AREA DESCRIBED IN THE APPLICATION; OR

(III) CONSISTENT WITH PUBLIC WELFARE, COMMUNITY CHARACTER, OR NEIGHBORHOOD CHARACTER.

(18) "RESTRICTIVE DESIGN OR DIMENSION STANDARD" MEANS A STANDARD IN A LOCAL LAW THAT:

(a) REQUIRES AN ARCHITECTURAL STYLE, BUILDING MATERIAL, OR LANDSCAPING THAT IS MORE RESTRICTIVE FOR AN ACCESSORY DWELLING UNIT THAN FOR A SINGLE-UNIT DETACHED DWELLING IN THE SAME ZONING DISTRICT;

(b) DOES NOT ALLOW FOR ACCESSORY DWELLING UNIT SIZES

BETWEEN FIVE HUNDRED AND SEVEN HUNDRED FIFTY SQUARE FEET;

(c) REQUIRES SIDE SETBACKS FOR AN ACCESSORY DWELLING UNIT THAT ARE LARGER THAN THE SIDE SETBACKS REQUIRED FOR A PRIMARY DWELLING UNIT IN THE SAME ZONING DISTRICT;

(d) REQUIRES A REAR SETBACK FOR AN ACCESSORY DWELLING UNIT THAT IS LARGER THAN THE GREATER OF:

(I) THE REAR SETBACK REQUIRED FOR OTHER ACCESSORY BUILDING TYPES IN THE SAME ZONING DISTRICT; OR

(II) FIVE FEET;

(e) IS A MORE RESTRICTIVE MINIMUM LOT SIZE STANDARD FOR AN ACCESSORY DWELLING UNIT THAN FOR A SINGLE-UNIT DETACHED DWELLING IN THE SAME ZONING DISTRICT; OR

(f) APPLIES MORE RESTRICTIVE AESTHETIC DESIGN OR DIMENSIONAL STANDARDS TO ACCESSORY DWELLING UNITS THAT ARE FACTORY-BUILT RESIDENTIAL STRUCTURES, AS DEFINED IN SECTION 24-32-3302 (10), THAN OTHER ACCESSORY DWELLING UNITS.

(19) (a) "SHORT-TERM RENTAL" MEANS THE RENTAL OF A LODGING UNIT FOR LESS THAN THIRTY DAYS. AS USED IN THIS SUBSECTION (19), "LODGING UNIT" MEANS ANY PROPERTY OR PORTION OF A PROPERTY THAT IS AVAILABLE FOR LODGING; EXCEPT THAT THE TERM EXCLUDES A HOTEL OR MOTEL UNIT.

(b) NOTWITHSTANDING SUBSECTION (19)(a) OF THIS SECTION, A LOCAL GOVERNMENT MAY APPLY ITS OWN DEFINITION OF "SHORT-TERM RENTAL" FOR PURPOSES OF THIS PART 1.

(20) "SINGLE-UNIT DETACHED DWELLING" MEANS A DETACHED BUILDING WITH A SINGLE DWELLING UNIT ON A SINGLE LOT.

(21) "SUBJECT JURISDICTION" MEANS EITHER:

(a) A MUNICIPALITY THAT BOTH HAS A POPULATION OF ONE THOUSAND OR MORE, AS REPORTED BY THE STATE DEMOGRAPHY OFFICE,

AND IS WITHIN A METROPOLITAN PLANNING ORGANIZATION; OR

(b) THE PORTION OF A COUNTY THAT IS BOTH WITHIN A CENSUS DESIGNATED PLACE WITH A POPULATION OF FORTY THOUSAND OR MORE, AS REPORTED IN THE MOST RECENT DECENNIAL CENSUS, AND WITHIN A METROPOLITAN PLANNING ORGANIZATION.

(22) "TANDEM PARKING SPACE" MEANS A PARKING SPACE THAT IS LOCATED EITHER IN FRONT OF OR BEHIND ONE OR MORE OTHER PARKING SPACES THAT SHARE THE SAME POINT OF ACCESS.

(23) "UNIVERSAL DESIGN" MEANS ANY DWELLING UNIT DESIGNED AND CONSTRUCTED TO BE SAFE AND ACCESSIBLE FOR ANY INDIVIDUAL REGARDLESS OF AGE OR ABILITIES.

(24) "VISITABLE UNIT" MEANS A DWELLING UNIT THAT A PERSON WITH A DISABILITY CAN ENTER, MOVE AROUND THE PRIMARY ENTRANCE FLOOR OF, AND USE THE BATHROOM IN.

29-35-103. Accessory dwelling unit requirements for a subject jurisdiction. (1) ON OR AFTER JUNE 30, 2025, A SUBJECT JURISDICTION SHALL ALLOW, SUBJECT TO AN ADMINISTRATIVE APPROVAL PROCESS, ONE ACCESSORY DWELLING UNIT AS AN ACCESSORY USE TO A SINGLE-UNIT DETACHED DWELLING IN ANY PART OF THE SUBJECT JURISDICTION WHERE THE JURISDICTION ALLOWS SINGLE-UNIT DETACHED DWELLINGS.

(2) ON OR AFTER JUNE 30, 2025, A SUBJECT JURISDICTION SHALL NOT:

(a) REQUIRE THE CONSTRUCTION OF A NEW OFF-STREET PARKING SPACE IN CONNECTION WITH THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT, EXCEPT AS DESCRIBED IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION;

(b) REQUIRE AN ACCESSORY DWELLING UNIT, OR ANY OTHER DWELLING ON THE SAME LOT AS AN ACCESSORY DWELLING UNIT, TO BE OWNER-OCCUPIED; EXCEPT THAT A SUBJECT JURISDICTION MAY REQUIRE A PROPERTY OWNER TO DEMONSTRATE THAT THE PROPERTY OWNER RESIDES ON THE PARCEL WHEN AN APPLICATION IS SUBMITTED:

(I) TO CONSTRUCT OR CONVERT AN ACCESSORY DWELLING UNIT. THIS EXCEPTION DOES NOT APPLY FOR AN ACCESSORY DWELLING UNIT THAT IS BEING CONSTRUCTED SIMULTANEOUSLY WITH A NEW PRIMARY DWELLING UNIT.

(II) FOR A LICENSE OR PERMIT FOR A SHORT-TERM RENTAL ON THE PARCEL THROUGH A LOCAL LAW OR PROGRAM.

(c) APPLY A RESTRICTIVE DESIGN OR DIMENSION STANDARD TO AN ACCESSORY DWELLING UNIT.

(3) NOTHING IN THIS SECTION PREVENTS A SUBJECT JURISDICTION OR OTHER LOCAL GOVERNMENT FROM:

(a) REQUIRING THE DESIGNATION OF AN OFF-STREET PARKING SPACE IN CONNECTION WITH AN ACCESSORY DWELLING UNIT, SO LONG AS THERE IS AN EXISTING DRIVEWAY, GARAGE, TANDEM PARKING SPACE, OR OTHER OFF-STREET PARKING SPACE AVAILABLE FOR SUCH A DESIGNATION AT THE TIME OF THE CONSTRUCTION OR CONVERSION OF THE ACCESSORY DWELLING UNIT;

(b) REQUIRING, IN CONNECTION WITH THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT, ONE NEW PARKING SPACE ON A PARCEL THAT:

(I) DOES NOT HAVE AN EXISTING OFF-STREET PARKING SPACE, INCLUDING A DRIVEWAY, GARAGE, OR TANDEM PARKING SPACE, THAT COULD BE USED FOR AN ACCESSORY DWELLING UNIT;

(II) IS IN A ZONING DISTRICT THAT, AS OF JANUARY 1, 2024, REQUIRES ONE OR MORE PARKING SPACES FOR THE PRIMARY DWELLING UNIT; AND

(III) IS LOCATED ON A BLOCK WHERE ON-STREET PARKING IS PROHIBITED FOR ANY REASON INCLUDING ENSURING ACCESS FOR EMERGENCY SERVICES;

(c) ALLOWING THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT THAT IS SMALLER THAN FIVE HUNDRED SQUARE FEET OR GREATER THAN EIGHT HUNDRED SQUARE FEET, OR RESTRICTING THE

SIZE OF AN ACCESSORY DWELLING UNIT SO THAT IT IS NO LARGER THAN THE SIZE OF THE PRINCIPAL DWELLING UNIT ON THE SAME LOT AS THE ACCESSORY DWELLING UNIT;

(d) ALLOWING THE CONSTRUCTION OR CONVERSION OF MULTIPLE ACCESSORY DWELLING UNITS ON THE SAME LOT;

(e) APPLYING A DESIGN OR DIMENSION STANDARD TO AN ACCESSORY DWELLING UNIT THAT IS NOT A RESTRICTIVE DESIGN OR DIMENSION STANDARD;

(f) ADOPTING OR ENFORCING A GENERALLY APPLICABLE REQUIREMENT FOR:

(I) THE PAYMENT OF AN IMPACT FEE OR OTHER SIMILAR DEVELOPMENT CHARGE, PURSUANT TO SECTION 29-20-104.5; OR

(II) THE MITIGATION OF IMPACTS IN CONFORMANCE WITH THE REQUIREMENTS OF PART 2 OF ARTICLE 20 OF THIS TITLE 29;

(g) ENACTING OR APPLYING A LOCAL LAW CONCERNING THE SHORT-TERM RENTAL OF AN ACCESSORY DWELLING UNIT OR ANY OTHER DWELLING ON THE SAME LOT AS AN ACCESSORY DWELLING UNIT;

(h) APPLYING THE DESIGN STANDARDS AND PROCEDURES OF A HISTORIC DISTRICT TO A LOT ON WHICH AN ACCESSORY DWELLING UNIT IS ALLOWED IN THAT HISTORIC DISTRICT, INCLUDING A STANDARD OR PROCEDURE RELATED TO DEMOLITION;

(i) APPLYING AND ENFORCING A LOCALLY ADOPTED LIFE SAFETY CODE, INCLUDING BUT NOT LIMITED TO, A BUILDING, FIRE, UTILITY, OR STORMWATER CODE;

(j) ALLOWING THE CONSTRUCTION OF, OR ISSUING A PERMIT FOR THE CONSTRUCTION OF, A SINGLE-UNIT DETACHED DWELLING IN AN AREA ZONED FOR SINGLE-UNIT DETACHED DWELLINGS;

(k) ENCOURAGING THE CONSTRUCTION OF ACCESSORY DWELLING UNITS THAT ARE, THROUGH THE APPLICATION OF LOCAL LAWS OR PROGRAMS INCLUDING THROUGH DEED RESTRICTIONS, MADE AFFORDABLE TO

HOUSEHOLDS UNDER CERTAIN INCOME LIMITS OR USED PRIMARILY TO HOUSE THE LOCAL WORKFORCE PURSUANT TO A LOCAL, REGIONAL, OR STATE AFFORDABLE HOUSING PROGRAM;

(l) DEFINING ACCESSORY DWELLING UNIT IN LOCAL LAW AS INCLUDING OR EXCLUDING OTHER DWELLING UNIT TYPES SUCH AS A "MOTOR HOME", AS DEFINED IN SECTION 42-1-102 (57), A "MULTIPURPOSE TRAILER", AS DEFINED IN SECTION 42-1-102 (60.3), AND A "RECREATIONAL VEHICLE", AS DEFINED IN SECTION 24-32-902 (9); OR

(m) REQUIRING A STATEMENT BY A WATER OR WASTEWATER SERVICE PROVIDER REGARDING ITS CAPACITY TO SERVICE THE PROPERTY AS A CONDITION OF PERMITTING AN ACCESSORY DWELLING UNIT.

(4) THIS SECTION ONLY APPLIES TO A PARCEL IN A SUBJECT JURISDICTION THAT IS NOT AN EXEMPT PARCEL.

29-35-104. Accessory dwelling unit supportive jurisdiction report - certification of a jurisdiction as an accessory dwelling unit supportive jurisdiction. (1) (a) IN ORDER TO BE CERTIFIED AS AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION BY THE DEPARTMENT, A LOCAL GOVERNMENT MUST SUBMIT TO THE DEPARTMENT, IN A FORM AND MANNER DETERMINED BY THE DEPARTMENT, A REPORT DEMONSTRATING EVIDENCE OF THE LOCAL GOVERNMENT:

(I) COMPLYING WITH SECTION 29-35-103 AS A SUBJECT JURISDICTION OR, IF THE LOCAL GOVERNMENT IS NOT A SUBJECT JURISDICTION, AS IF THE LOCAL GOVERNMENT WERE A SUBJECT JURISDICTION FOR PURPOSES OF SECTION 29-35-103; AND

(II) IMPLEMENTING ONE OR MORE OF THE FOLLOWING STRATEGIES:

(A) WAIVING, REDUCING, OR PROVIDING FINANCIAL ASSISTANCE FOR ACCESSORY DWELLING UNIT-RELATED FEES THAT ARE INCURRED BY LOW- AND MODERATE-INCOME HOUSEHOLDS;

(B) ENACTING LOCAL LAWS OR PROGRAMS THAT INCENTIVIZE THE AFFORDABILITY OF CERTAIN ACCESSORY DWELLING UNITS INCLUDING ACCESSORY DWELLING UNITS USED PRIMARILY TO HOUSE THE LOCAL WORKFORCE;

(C) PROVIDING PRE-APPROVED PLANS FOR THE CONSTRUCTION OF ACCESSORY DWELLING UNITS;

(D) IMPLEMENTING A PROGRAM TO PROVIDE EDUCATION AND TECHNICAL ASSISTANCE TO HOMEOWNERS TO CONSTRUCT OR CONVERT AN ACCESSORY DWELLING UNIT;

(E) IMPLEMENTING A PROGRAM TO REGULATE THE USE OF ACCESSORY DWELLING UNITS FOR SHORT-TERM RENTALS;

(F) ENACTING LOCAL LAWS THAT INCENTIVIZE THE CONSTRUCTION AND CONVERSION OF ACCESSIBLE AND VISITABLE ACCESSORY DWELLING UNITS;

(G) ASSISTING PROPERTY OWNERS WITH ENSURING THAT PRE-EXISTING ACCESSORY DWELLING UNITS COMPLY WITH LOCAL LAWS;

(H) ENABLING A PATHWAY FOR THE SEPARATE SALE OF AN ACCESSORY DWELLING UNIT;

(I) ENACTING LOCAL LAWS THAT ENCOURAGE THE CONSTRUCTION OF ACCESSORY DWELLING UNITS THAT ARE FACTORY-BUILT RESIDENTIAL STRUCTURES, AS DEFINED IN SECTION 24-32-3302 (10); OR

(J) ANY OTHER STRATEGY THAT IS APPROVED BY THE DEPARTMENT AND THAT ENCOURAGES THE CONSTRUCTION, CONVERSION, OR USE OF ACCESSORY DWELLING UNITS.

(b) (I) ON OR BEFORE JUNE 30, 2025, A SUBJECT JURISDICTION SHALL SUBMIT THE REPORT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION.

(II) NOTWITHSTANDING SUBSECTION (1)(b)(I) OF THIS SECTION, THE DEPARTMENT MAY ALLOW A SUBJECT JURISDICTION TO SUBMIT THE REPORT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION NO MORE THAN SIX MONTHS AFTER THE DEADLINE DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION IF THE SUBJECT JURISDICTION DEMONSTRATES, IN A FORM AND MANNER DETERMINED BY THE DEPARTMENT, THAT THE SUBJECT JURISDICTION HAS:

(A) INITIATED A PROCESS TO UPDATE ITS LOCAL LAWS AS NECESSARY

TO COMPLY WITH THE REQUIREMENTS OF THE REPORT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION;

(B) A PLAN AND TIMELINE TO UPDATE ITS LOCAL LAWS AS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE REPORT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION; AND

(C) PROVIDED AN EXPLANATION FOR NOT BEING ABLE TO MEET THE DEADLINE DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION.

(c) IF A LOCAL GOVERNMENT THAT IS NOT A SUBJECT JURISDICTION SUBMITS A REPORT PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THAT LOCAL GOVERNMENT SHALL, AS PART OF THE REPORT, SUBMIT EVIDENCE OF COMPLYING WITH THE REQUIREMENTS FOR A SUBJECT JURISDICTION DESCRIBED IN SECTION 29-35-103.

(2)(a) WITHIN NINETY DAYS OF RECEIVING A LOCAL GOVERNMENT'S REPORT SUBMITTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE DEPARTMENT SHALL REVIEW THE REPORT, EITHER APPROVE OR REJECT THE REPORT, AND PROVIDE FEEDBACK TO THE LOCAL GOVERNMENT ON THE REPORT.

(b) IF THE DEPARTMENT APPROVES A LOCAL GOVERNMENT'S REPORT SUBMITTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE TO THAT LOCAL GOVERNMENT A CERTIFICATE INDICATING THAT THE LOCAL GOVERNMENT QUALIFIES AS AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION. THE DEPARTMENT MAY REVOKE SUCH A CERTIFICATE IF A LOCAL GOVERNMENT DOES NOT SATISFY THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION.

(c) IF THE DEPARTMENT REJECTS A LOCAL GOVERNMENT'S REPORT SUBMITTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE DEPARTMENT MAY GRANT THE LOCAL GOVERNMENT AN ADDITIONAL ONE HUNDRED TWENTY DAYS TO CORRECT ANY DEFICIENCIES IDENTIFIED IN THE REPORT AND RESUBMIT AN AMENDED REPORT. WITHIN NINETY DAYS OF RECEIVING AN AMENDED REPORT, THE DEPARTMENT SHALL REVIEW THE AMENDED REPORT, EITHER APPROVE OR REJECT THE AMENDED REPORT, AND PROVIDE FEEDBACK ON THE AMENDED REPORT.

(3) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF

TRANSPORTATION, THE COLORADO ENERGY OFFICE, AND THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, MAY DEVELOP POLICIES AND PROCEDURES AS NECESSARY TO IMPLEMENT THIS SECTION.

29-35-105. Accessory dwelling unit fee reduction and encouragement grant program - created - application - criteria - awards - fund - reporting requirements - rules - definitions - repeal.

(1) THE ACCESSORY DWELLING UNIT FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM IS CREATED IN THE DEPARTMENT TO PROVIDE GRANTS TO ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTIONS FOR ACTIVITIES THAT PROMOTE THE CONSTRUCTION OF ACCESSORY DWELLING UNITS, INCLUDING BUT NOT LIMITED TO, OFFSETTING COSTS INCURRED IN CONNECTION WITH DEVELOPING PRE-APPROVED ACCESSORY DWELLING UNIT PLANS, PROVIDING TECHNICAL ASSISTANCE TO PERSONS CONVERTING OR CONSTRUCTING ACCESSORY DWELLING UNITS, OR WAIVING, REDUCING, OR PROVIDING FINANCIAL ASSISTANCE FOR ACCESSORY DWELLING UNIT ASSOCIATED FEES AND OTHER REQUIRED COSTS.

(2) GRANT RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH THE GRANT PROGRAM TO OFFSET BOTH ELIGIBLE COSTS AND THE COST OF WAIVING, REDUCING, OR PROVIDING FINANCIAL ASSISTANCE FOR REASONABLE AND NECESSARY ACCESSORY DWELLING UNIT FEES AND OTHER REQUIRED COSTS FOR:

- (a) LOW- AND MODERATE-INCOME HOUSEHOLDS;
- (b) AFFORDABLE ACCESSORY DWELLING UNITS;
- (c) ACCESSIBLE OR VISITABLE ACCESSORY DWELLING UNITS;
- (d) ACCESSORY DWELLING UNITS USED AS LONG-TERM RENTALS FOR MEMBERS OF THE LOCAL WORKFORCE; OR
- (e) ACCESSORY DWELLING UNITS USED TO SUPPORT OTHER DEMONSTRATED HOUSING NEEDS IN THE COMMUNITY.

(3) THE DEPARTMENT SHALL ADMINISTER THE GRANT PROGRAM AND, SUBJECT TO AVAILABLE APPROPRIATIONS, PROVIDE TECHNICAL ASSISTANCE, DEVELOP A TOOLKIT TO SUPPORT LOCAL GOVERNMENTS IN ENCOURAGING ACCESSORY DWELLING UNIT CONSTRUCTION, RECEIVE GRANT APPLICATIONS

AND AWARD GRANTS AS PROVIDED IN THIS SECTION.

(4) TO RECEIVE A GRANT, AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION MUST SUBMIT AN APPLICATION TO THE DEPARTMENT IN ACCORDANCE WITH THE POLICIES AND PROCEDURES DEVELOPED BY THE DEPARTMENT PURSUANT TO SUBSECTION (9) OF THIS SECTION. AT A MINIMUM, THE APPLICATION MUST INCLUDE THE FOLLOWING:

(a) A COPY OF THE CERTIFICATE ISSUED BY THE DEPARTMENT PURSUANT TO SECTION 29-35-104 CERTIFYING THAT THE LOCAL GOVERNMENT IS AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION;

(b) THE NUMBER OF ACCESSORY DWELLING UNITS THAT THE LOCAL GOVERNMENT HAS PERMITTED AND WHEN THE LOCAL GOVERNMENT PERMITTED THOSE ACCESSORY DWELLING UNITS;

(c) THE TYPE AND COSTS OF FEES AND OTHER ELIGIBLE COSTS THAT THE LOCAL GOVERNMENT IS PROPOSING TO USE A GRANT AWARD TO PAY FOR;

(d) THE NUMBER OF ACCESSORY DWELLING UNITS THAT THE LOCAL GOVERNMENT EXPECTS TO SUPPORT WITH A GRANT AWARD AND THE PERIOD FOR WHICH THE LOCAL GOVERNMENT INTENDS TO SUPPORT THOSE ACCESSORY DWELLING UNITS; AND

(e) INFORMATION ABOUT THE TYPES OF HOUSEHOLDS AND ACCESSORY DWELLING UNITS THAT THE LOCAL GOVERNMENT INTENDS TO SUPPORT WITH A GRANT AWARD, SUCH AS WHETHER THE LOCAL GOVERNMENT INTENDS TO SUPPORT LOW- AND MODERATE-INCOME HOUSEHOLDS, AFFORDABLE ACCESSORY DWELLING UNITS, ACCESSIBLE OR VISITABLE ACCESSORY DWELLING UNITS, ACCESSORY DWELLING UNITS FOR HOUSING THE LOCAL WORKFORCE, OR ACCESSORY DWELLING UNITS SUPPORTING OTHER DEMONSTRATED HOUSING NEEDS IN THE COMMUNITY.

(5) THE DEPARTMENT SHALL REVIEW THE APPLICATIONS RECEIVED PURSUANT TO SUBSECTION (4) OF THIS SECTION. IN AWARDING GRANTS, THE DEPARTMENT SHALL GIVE PRIORITY TO LOCAL GOVERNMENTS THAT:

(a) IMPOSE ACCESSORY DWELLING UNIT FEES AND COSTS THAT ARE REASONABLE AND NECESSARY;

(b) HAVE DEMONSTRATED A SIGNIFICANT COMMITMENT TO FURTHER CONSTRUCTION AND CONVERSION OF ACCESSORY DWELLING UNITS THROUGH THE ADOPTION OF STRATEGIES DESCRIBED IN SECTION 29-35-104 (1)(a)(II); AND

(c) PROVIDE OFFSETS FOR, OR WAIVE A GREATER NUMBER OF ACCESSORY DWELLING UNIT FEES FOR:

(I) LOW- AND MODERATE-INCOME HOUSEHOLDS; OR

(II) ACCESSORY DWELLING UNITS THAT ARE RENTED TO LOW- AND MODERATE-INCOME HOUSEHOLDS.

(6) IN AWARDING A GRANT, THE DEPARTMENT SHALL AWARD A LOCAL GOVERNMENT AN AMOUNT EQUAL TO NO MORE THAN FIFTEEN THOUSAND DOLLARS PER ACCESSORY DWELLING UNIT PERMITTED BY THE LOCAL GOVERNMENT, TO BE REIMBURSED BASED ON THE NUMBER OF PERMITTED ACCESSORY DWELLING UNITS.

(7) (a) THE ACCESSORY DWELLING UNIT FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ANY MONEY THAT THE GENERAL ASSEMBLY MAY TRANSFER OR APPROPRIATE TO THE FUND AND GIFTS, GRANTS, OR DONATIONS CREDITED TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR THE PURPOSE OF IMPLEMENTING AND ADMINISTERING THE GRANT PROGRAM.

(c) ON OR BEFORE JUNE 30, 2024, THE STATE TREASURER SHALL TRANSFER FIVE MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

(8) IN ACCORDANCE WITH THE POLICIES AND PROCEDURES DEVELOPED BY THE DEPARTMENT PURSUANT TO SUBSECTION (9) OF THIS SECTION, EACH LOCAL GOVERNMENT THAT RECEIVES A GRANT THROUGH THE GRANT PROGRAM SHALL SUBMIT A REPORT TO THE DEPARTMENT. AT A MINIMUM, THE REPORT MUST INCLUDE THE FOLLOWING INFORMATION:

(a) THE NUMBER OF ACCESSORY DWELLING UNITS WITH ACCESSORY DWELLING UNIT FEES OR COSTS THAT LOCAL GOVERNMENTS WAIVED, REDUCED, OR PROVIDED FINANCIAL ASSISTANCE FOR IN THE PAST YEAR;

(b) THE TOTAL AMOUNT OF ELIGIBLE COSTS THAT LOCAL GOVERNMENTS INCURRED AND WERE REIMBURSED FOR THROUGH THE GRANT PROGRAM IN THE PAST YEAR IN CONNECTION WITH THE GRANT PROGRAM;

(c) THE NUMBER OF THE ACCESSORY DWELLING UNITS DESCRIBED IN SUBSECTION (8)(a) OF THIS SECTION THAT WERE BUILT IN THE PAST YEAR THAT WERE BUILT BY LOW- AND MODERATE-INCOME HOUSEHOLDS, THAT ARE AFFORDABLE ACCESSORY DWELLING UNITS, AND THAT ARE VISITABLE OR ACCESSIBLE ACCESSORY DWELLING UNITS;

(d) THE NUMBER OF ACCESSORY DWELLING UNITS THAT ARE FACTORY-BUILT RESIDENTIAL STRUCTURES, AS DEFINED IN SECTION 24-32-3302 (10); AND

(e) THE NUMBER OF ACCESSORY DWELLING UNIT PERMITS AWARDED, DENIED, OR IN PROGRESS IN THE LOCAL GOVERNMENT'S JURISDICTION.

(9) THE DEPARTMENT SHALL IMPLEMENT THE GRANT PROGRAM IN ACCORDANCE WITH THIS SECTION. THE DEPARTMENT SHALL DEVELOP, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, THE COLORADO ENERGY OFFICE, AND THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, POLICIES AND PROCEDURES BOTH AS REQUIRED IN THIS SECTION AND AS MAY BE NECESSARY TO IMPLEMENT THE GRANT PROGRAM.

(10) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCESSORY DWELLING UNIT FEE" MEANS A REASONABLE AND NECESSARY FEE COLLECTED OR REQUIRED BY A LOCAL GOVERNMENT IN CONNECTION WITH THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT. SUCH A FEE MAY INCLUDE IMPACT FEES.

(b) (I) "ELIGIBLE COSTS" MEANS COSTS INCURRED BY A LOCAL GOVERNMENT AND DETERMINED BY THE DEPARTMENT TO BE INCURRED IN CONNECTION WITH DEVELOPING PRE-APPROVED ACCESSORY DWELLING UNIT PLANS, PROVIDING TECHNICAL ASSISTANCE TO PERSONS CONVERTING OR

CONSTRUCTING ACCESSORY DWELLING UNITS, OR OTHER REASONABLE AND NECESSARY FEES LEVIED BY OR COSTS BORNE BY THE LOCAL GOVERNMENT FOR THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT.

(II) NOTWITHSTANDING SUBSECTION (10)(b)(I) OF THIS SECTION, IN ORDER FOR COSTS INCURRED BY A LOCAL GOVERNMENT IN CONNECTION WITH DEVELOPING PRE-APPROVED ACCESSORY DWELLING UNIT PLANS TO QUALIFY AS ELIGIBLE COSTS, AT LEAST ONE SUCH PRE-APPROVED ACCESSORY DWELLING UNIT PLAN MUST BE FOR AN ACCESSIBLE OR VISITABLE ACCESSORY DWELLING UNIT.

(c) "FUND" MEANS THE ACCESSORY DWELLING UNIT FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM FUND CREATED IN SUBSECTION (7) OF THIS SECTION.

(d) "GRANT PROGRAM" MEANS THE ACCESSORY DWELLING UNIT FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM CREATED IN THIS SECTION.

(11) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2030.

SECTION 2. In Colorado Revised Statutes, 24-32-3305, **add** (3.3) as follows:

24-32-3305. Rules - advisory committee - enforcement. (3.3) THE DEPARTMENT SHALL CREATE FOR FACTORY-BUILT STRUCTURES, INCLUDING THOSE THAT WOULD BE CONSIDERED ACCESSORY DWELLING UNITS, MODEL PUBLIC SAFETY CODE REQUIREMENTS RELATED TO GEOGRAPHIC OR CLIMATIC CONDITIONS, SUCH AS WEIGHT RESTRICTIONS FOR ROOF SNOW LOADS, WIND SHEAR FACTORS, OR WILDFIRE RISK, FOR LOCAL GOVERNMENTS TO CONSIDER AND ADOPT PURSUANT TO SECTION 24-32-3318 (2)(a).

SECTION 3. In Colorado Revised Statutes, 24-46-104, **add** (1)(q) as follows:

24-46-104. Powers and duties of commission - repeal. (1) The commission has the following powers and duties:

(q) (I) TO EXPEND EIGHT MILLION DOLLARS TO CONTRACT WITH THE COLORADO HOUSING AND FINANCE AUTHORITY, CREATED IN PART 7 OF

ARTICLE 4 OF TITLE 29, FOR THE CREATION AND OPERATION OF ONE OR MORE OF THE FOLLOWING PROGRAMS TO BENEFIT LOW- TO MODERATE-INCOME RESIDENTS IN LOCAL GOVERNMENTS THAT HAVE BEEN CERTIFIED AS ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTIONS BY THE DEPARTMENT OF LOCAL AFFAIRS:

(A) AN ACCESSORY DWELLING UNIT CREDIT ENHANCEMENT PROGRAM THAT SUPPORTS LENDERS OFFERING AFFORDABLE LOANS TO ELIGIBLE LOW- AND MODERATE-INCOME BORROWERS FOR THE CONSTRUCTION OR CONVERSION OF ACCESSORY DWELLING UNITS;

(B) A PROGRAM THAT ALLOWS FOR THE BUYING DOWN OF INTEREST RATES ON LOANS MADE TO ELIGIBLE LOW- AND MODERATE-INCOME BORROWERS IN CONNECTION WITH THE CONSTRUCTION OR CONVERSION OF ACCESSORY DWELLING UNITS;

(C) A PROGRAM THAT OFFERS DOWN PAYMENT ASSISTANCE IN CONNECTION WITH ACCESSORY DWELLING UNITS, PRINCIPAL REDUCTION ON LOANS TO ELIGIBLE LOW- AND MODERATE-INCOME BORROWERS MADE IN CONNECTION WITH ACCESSORY DWELLING UNITS, OR BOTH; OR

(D) A PROGRAM IN WHICH THE COLORADO HOUSING AND FINANCE AUTHORITY OFFERS LOANS, REVOLVING LINES OF CREDIT, OR GRANTS TO ELIGIBLE NON-PROFITS, PUBLIC HOUSING AUTHORITIES, AND COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS TO MAKE DIRECT LOANS OR GRANTS TO SUPPORT THE CONSTRUCTION OR CONVERSION OF ACCESSORY DWELLING UNITS FOR LOW- AND MODERATE-INCOME BORROWERS OR TENANTS.

(II) ANY CONTRACT MADE BY THE COMMISSION WITH THE COLORADO HOUSING AND FINANCE AUTHORITY PURSUANT TO THIS SUBSECTION (1)(q) MAY INCLUDE NORMAL AND CUSTOMARY FEES AND EXPENSES FOR ADMINISTRATING THE PROGRAMS DESCRIBED IN THIS SUBSECTION (1)(q).

SECTION 4. In Colorado Revised Statutes, 24-46-105, **add** (1)(c) as follows:

24-46-105. Colorado economic development fund - creation - report - repeal. (1) (c) (I) ON JULY 1, 2024, THE STATE TREASURER SHALL TRANSFER EIGHT MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

THE COMMISSION SHALL USE THE FUNDS TRANSFERRED PURSUANT TO THIS SUBSECTION (1)(c)(I) TO CONTRACT WITH THE COLORADO HOUSING AND FINANCE AUTHORITY, CREATED IN PART 7 OF ARTICLE 4 OF TITLE 29, FOR THE PURPOSES DESCRIBED IN SECTION 24-46-104 (1)(q).

(II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 5. In Colorado Revised Statutes, 24-67-105, **add** (5.3) as follows:

24-67-105. Standards and conditions for planned unit development - definitions. (5.3) (a) IN A SUBJECT JURISDICTION, ANY PLANNED UNIT DEVELOPMENT RESOLUTION OR ORDINANCE THAT IS ADOPTED OR APPROVED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (5.3), AND THAT ALLOWS THE CONSTRUCTION OF ONE OR MORE SINGLE-UNIT DETACHED DWELLINGS, MUST NOT RESTRICT THE CREATION OF AN ACCESSORY DWELLING UNIT AS AN ACCESSORY USE TO ANY SINGLE-UNIT DETACHED DWELLING MORE THAN THE LOCAL LAW THAT APPLIES TO ACCESSORY DWELLING UNIT DEVELOPMENT OUTSIDE OF A PLANNED UNIT DEVELOPMENT OR IN ANY WAY THAT IS PROHIBITED BY SECTION 29-35-103.

(b) IN A SUBJECT JURISDICTION, ANY PLANNED UNIT DEVELOPMENT RESOLUTION OR ORDINANCE THAT WAS ADOPTED OR APPROVED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (5.3), THAT ALLOWS THE CONSTRUCTION OF ONE OR MORE SINGLE-UNIT DETACHED DWELLINGS, AND THAT RESTRICTS THE CONSTRUCTION OF AN ACCESSORY DWELLING UNIT AS AN ACCESSORY USE TO ANY SINGLE-UNIT DETACHED DWELLING MORE THAN THE LOCAL LAW THAT APPLIES TO ACCESSORY DWELLING UNIT DEVELOPMENT OUTSIDE OF A PLANNED UNIT DEVELOPMENT:

(I) SHALL NOT BE INTERPRETED OR ENFORCED TO RESTRICT THE CREATION OF AN ACCESSORY DWELLING UNIT AS AN ACCESSORY USE TO ANY SINGLE-UNIT DETACHED DWELLING UNIT IN ANY WAY THAT IS PROHIBITED BY SECTION 29-35-103; AND

(II) MAY BE SUPERSEDED BY THE ADOPTION OF A LOCAL LAW PURSUANT TO SECTION 29-35-103.

(c) NOTWITHSTANDING SUBSECTION (5.3)(b) OF THIS SECTION, A LOCAL GOVERNMENT MAY ADOPT CONFORMING AMENDMENTS TO ANY SUCH

PLANNED UNIT DEVELOPMENT.

(d) AS USED IN THIS SUBSECTION (5.3), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "ACCESSORY DWELLING UNIT" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (2).

(II) "LOCAL LAW" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (13).

(III) "SUBJECT JURISDICTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (21).

SECTION 6. In Colorado Revised Statutes, 38-33.3-106.5, **add** (4) as follows:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic, political, or religious expression - public rights-of-way - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures - child care - definitions. (4) (a) IN A SUBJECT JURISDICTION OR AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION, NO PROVISION OF A DECLARATION, BYLAW, OR RULE OF AN ASSOCIATION THAT IS ADOPTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4) MAY RESTRICT THE CREATION OF AN ACCESSORY DWELLING UNIT AS AN ACCESSORY USE TO ANY SINGLE-UNIT DETACHED DWELLING IN ANY WAY THAT IS PROHIBITED BY SECTION 29-35-103, AND ANY PROVISION OF A DECLARATION, BYLAW, OR RULE THAT INCLUDES SUCH A RESTRICTION IS VOID AS A MATTER OF PUBLIC POLICY.

(b) IN A SUBJECT JURISDICTION OR AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION, NO PROVISION OF A DECLARATION, BYLAW, OR RULE OF AN ASSOCIATION THAT IS ADOPTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (4) MAY RESTRICT THE CREATION OF AN ACCESSORY DWELLING UNIT AS AN ACCESSORY USE TO ANY SINGLE-UNIT DETACHED DWELLING IN ANY WAY THAT IS PROHIBITED BY SECTION 29-35-103, AND ANY PROVISION OF A DECLARATION, BYLAW, OR RULE THAT INCLUDES SUCH A RESTRICTION IS VOID AS A MATTER OF PUBLIC POLICY.

(c) SUBSECTIONS (4)(a) AND (4)(b) OF THIS SECTION DO NOT APPLY

TO REASONABLE RESTRICTIONS ON ACCESSORY DWELLING UNITS. AS USED IN THIS SUBSECTION (4)(c), "REASONABLE RESTRICTION" MEANS A SUBSTANTIVE CONDITION OR REQUIREMENT THAT DOES NOT UNREASONABLY INCREASE THE COST TO CONSTRUCT, EFFECTIVELY PROHIBIT THE CONSTRUCTION OF, OR EXTINGUISH THE ABILITY TO OTHERWISE CONSTRUCT, AN ACCESSORY DWELLING UNIT CONSISTENT WITH PART I OF ARTICLE 35 OF TITLE 29.

(d) AS USED IN THIS SUBSECTION (4), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "ACCESSORY DWELLING UNIT" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (2).

(II) "ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (3).

(III) "SUBJECT JURISDICTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (21).

SECTION 7. Appropriation. (1) For the 2024-25 state fiscal year, \$537,246 is appropriated to the department of local affairs. This appropriation is from the accessory dwelling unit fee reduction and encouragement grant program fund created in section 29-35-105 (7)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$467,246 for use by division of local government for accessory dwelling unit fee reduction and encouragement grant program related to local government services, which amount is based on an assumption that the division will require an additional 4.9 FTE; and

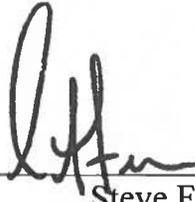
(b) \$70,000 for the purchase of information technology services.

(2) For the 2024-25 state fiscal year, \$70,000 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of local affairs under subsection (1)(b) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of local affairs.

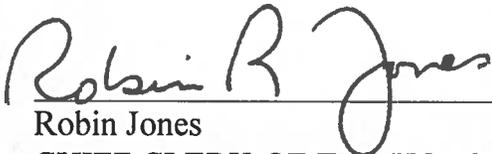
SECTION 8. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

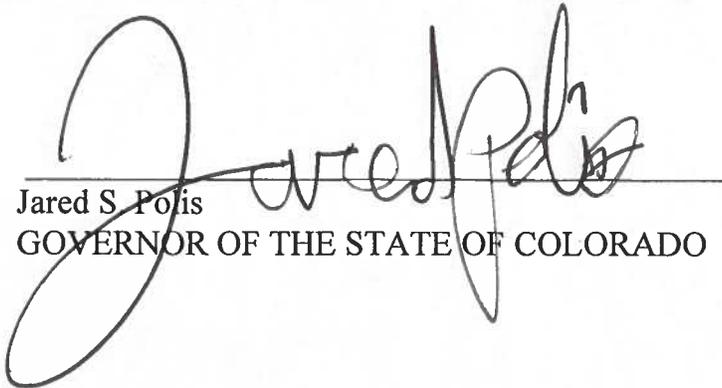


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED Monday, May 13th, 2024 at 12:45 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 24-1304

BY REPRESENTATIVE(S) Vigil and Woodrow, Bacon, Boesenecker, deGruy Kennedy, Epps, Froelich, Hernandez, Herod, Jodeh, Joseph, Kipp, Mabrey, Rutinel, Sirota, Lindsay, Mauro, Parenti, Weissman, Willford, McCluskie;
also SENATOR(S) Priola and Hinrichsen, Cutter, Gonzales, Jaquez Lewis.

CONCERNING PARKING REQUIREMENTS WITHIN METROPOLITAN PLANNING ORGANIZATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 36 to title 29 as follows:

ARTICLE 36 **Strategic Growth**

29-36-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) THERE IS AN EXTRATERRITORIAL IMPACT WHEN LOCAL GOVERNMENTS ENACT LAND USE DECISIONS THAT REQUIRE A MINIMUM

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

AMOUNT OF PARKING SPACES;

(b) RESIDENTIAL DEVELOPMENTS FREQUENTLY HAVE MORE PARKING THAN IS UTILIZED, WHICH ADDS TO HOUSING COSTS AND ENCOURAGES ADDITIONAL VEHICLE OWNERSHIP AND VEHICLE MILES TRAVELED. ACCORDING TO THE REGIONAL TRANSPORTATION DISTRICT STUDY TITLED "RESIDENTIAL PARKING IN STATION AREAS: A STUDY OF METRO DENVER", UNSUBSIDIZED HOUSING DEVELOPMENTS NEAR REGIONAL TRANSPORTATION DISTRICT STATIONS PROVIDE FORTY PERCENT MORE PARKING THAN RESIDENTS UTILIZE AT PEAK TIMES, AND INCOME-RESTRICTED HOUSING DEVELOPMENTS PROVIDE FIFTY PERCENT MORE PARKING THAN IS USED.

(c) THE 2021 STUDY "PARKING & AFFORDABLE HOUSING" OF PARKING UTILIZATION AT AFFORDABLE HOUSING DEVELOPMENTS ALONG THE FRONT RANGE FOUND THAT HALF OF PARKING SPACES BUILT ON AVERAGE GO UNUSED, AND THAT REQUIREMENTS CAN BE UP TO FIVE TIMES THE NEED ESPECIALLY FOR BUILDINGS SERVING LOWER AREA MEDIAN INCOMES;

(d) LOCAL GOVERNMENT LAND USE DECISIONS THAT REQUIRE A MINIMUM AMOUNT OF PARKING SPACES BEYOND WHAT IS NECESSARY TO MEET MARKET DEMAND INCREASE VEHICLE MILES TRAVELED AND ASSOCIATED GREENHOUSE GAS EMISSIONS. ACCORDING TO A UNIVERSITY OF CALIFORNIA INSTITUTE OF TRANSPORTATION STUDIES ARTICLE TITLED "WHAT DO RESIDENTIAL LOTTERIES SHOW US ABOUT TRANSPORTATION CHOICES?", HIGHER AMOUNTS OF FREE PARKING PROVIDED IN RESIDENTIAL DEVELOPMENTS CAUSE HIGHER RATES OF VEHICLE OWNERSHIP, HIGHER RATES OF VEHICLE MILES TRAVELED, AND LESS FREQUENT TRANSIT USE.

(e) ACCORDING TO THE STUDY "EFFECTS OF PARKING PROVISION ON AUTOMOBILE USE IN U.S. CITIES: INFERRING CAUSALITY" IN THE JOURNAL TRANSPORTATION RESEARCH RECORD, AN INCREASE IN PARKING PROVISIONS FROM ONE-TENTH TO ONE-HALF PARKING SPACE PER PERSON IS ASSOCIATED WITH AN INCREASE IN AUTOMOBILE MODE SHARE OF ROUGHLY THIRTY PERCENT;

(f) ACCORDING TO THE ARTICLE "HOUSEHOLDS WITH CONSTRAINED OFF-STREET PARKING DRIVE FEWER MILES" IN THE JOURNAL TRANSPORTATION, VEHICLE OWNERSHIP RATES ARE FOURTEEN PERCENT HIGHER FOR HOUSEHOLDS WITH MORE THAN ONE AVAILABLE PARKING SPACE PER UNIT COMPARED TO THOSE WITH ONE OR FEWER, AND FOR EVERY

ADDITIONAL VEHICLE PER HOUSEHOLD, THE HOUSEHOLD TRAVELS ON AVERAGE SEVENTEEN MORE MILES OF TOTAL VEHICLE MILES TRAVELED PER DAY;

(g) COLORADANS DRIVE MORE MILES PER PERSON THAN THEY USED TO, WHICH PUTS STRESS ON TRANSPORTATION INFRASTRUCTURE AND INCREASING HOUSEHOLD COSTS. SINCE 1981, PER CAPITA VEHICLE MILES TRAVELED IN COLORADO HAVE RISEN BY OVER TWENTY PERCENT ACCORDING TO DATA FROM THE FEDERAL HIGHWAY ADMINISTRATION.

(h) INCREASED VEHICLE OWNERSHIP AND THE RESULTING VEHICLE MILES TRAVELED IMPACT NEIGHBORING JURISDICTIONS BY INCREASING CONGESTION, ROADWAY INFRASTRUCTURE MAINTENANCE COSTS, AIR POLLUTION, NOISE, AND GREENHOUSE GAS EMISSIONS;

(i) GIVEN THE CLOSE PROXIMITY AND INTERCONNECTED NATURE OF JURISDICTIONS WITHIN COLORADO'S METROPOLITAN REGIONS, MANY RESIDENTS TRAVEL FREQUENTLY BETWEEN JURISDICTIONS FOR WORK, SHOPPING, RECREATION, AND OTHER TRIPS;

(j) IN COLORADO'S MAJOR CITIES, A SIGNIFICANT SHARE OF EMPLOYEES COMMUTE TO JOBS IN THE CITY BUT LIVE ELSEWHERE, INCLUDING SEVENTY PERCENT OF EMPLOYEES IN DENVER, FORTY-FIVE PERCENT IN COLORADO SPRINGS, SIXTY PERCENT IN FORT COLLINS, FIFTY PERCENT IN PUEBLO, AND SIXTY-FIVE PERCENT IN GRAND JUNCTION, ACCORDING TO 2021 DATA FROM THE FEDERAL CENSUS;

(k) EXCESSIVE PARKING REQUIREMENTS LIMIT COMPACT, WALKABLE DEVELOPMENT BY MANDATING ADDITIONAL SPACE BETWEEN USES, WHICH THEN NECESSITATES DRIVING TO REACH MOST DESTINATIONS;

(l) LOWER DENSITY DEVELOPMENT HAS LOWERED REVENUE AND INCREASED CAPITAL AND MAINTENANCE COSTS COMPARED TO MORE COMPACT DEVELOPMENT. NATIONAL STUDIES, SUCH AS THE ARTICLE "RELATIONSHIPS BETWEEN DENSITY AND PER CAPITA MUNICIPAL SPENDING IN THE UNITED STATES", PUBLISHED IN URBAN SCIENCE, HAVE FOUND THAT LOWER DENSITY COMMUNITIES HAVE HIGHER GOVERNMENT CAPITAL AND MAINTENANCE COSTS FOR WATER, SEWER, AND TRANSPORTATION INFRASTRUCTURE AND LOWER PROPERTY AND SALES TAX REVENUE. THESE INCREASED COSTS ARE OFTEN BORNE BY BOTH STATE AND LOCAL

GOVERNMENTS.

(m) VEHICLE TRAFFIC, WHICH INCREASES WHEN LAND USE PATTERNS ARE MORE DISPERSED, CONTRIBUTES TWENTY PERCENT OF NITROGEN OXIDE EMISSIONS, A KEY OZONE PRECURSOR, ACCORDING TO THE EXECUTIVE SUMMARY OF THE MODERATE AREA OZONE STATE IMPLEMENTATION PLAN FOR THE 2015 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS BY THE REGIONAL AIR QUALITY COUNCIL;

(n) THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS CLASSIFIED THE DENVER METRO AREA AND THE NORTH FRONT RANGE AREA AS BEING IN SEVERE NONATTAINMENT FOR OZONE AND GROUND LEVEL OZONE, WHICH HAS SERIOUS IMPACTS ON HUMAN HEALTH, PARTICULARLY FOR VULNERABLE POPULATIONS;

(o) ACCORDING TO THE GREENHOUSE GAS POLLUTION REDUCTION ROADMAP, PUBLISHED BY THE COLORADO ENERGY OFFICE AND DATED JANUARY 14, 2021, THE TRANSPORTATION SECTOR IS THE SINGLE LARGEST SOURCE OF GREENHOUSE GAS POLLUTION IN COLORADO;

(p) NEARLY SIXTY PERCENT OF THE GREENHOUSE GAS EMISSIONS FROM THE TRANSPORTATION SECTOR COME FROM LIGHT-DUTY VEHICLES, THE MAJORITY OF CARS AND TRUCKS THAT COLORADANS DRIVE EVERY DAY;

(q) SECTION 43-1-128 (3) DIRECTS THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH GREENHOUSE GAS REDUCTION TARGETS, GUIDELINES, AND PROCEDURES FOR STATE AND REGIONAL TRANSPORTATION PLANS, AND THE RESULTING GREENHOUSE GAS PLANNING RULE AND ASSOCIATED MITIGATION POLICY DIRECTIVES INCLUDE A LIST OF GREENHOUSE GAS MITIGATION MEASURES TO ACHIEVE THOSE TARGETS, INCLUDING THE ELIMINATION OF MINIMUM PARKING REQUIREMENTS AND OTHER PARKING MANAGEMENT STRATEGIES;

(r) LOCAL GOVERNMENT LAND USE DECISIONS THAT REQUIRE A MINIMUM AMOUNT OF PARKING SPACES INCREASE THE COST OF NEW RESIDENTIAL PROJECTS, WHICH INCREASES HOUSING COSTS. ACCORDING TO THE REGIONAL TRANSPORTATION DISTRICT STUDY TITLED "RESIDENTIAL PARKING IN STATION AREAS: A STUDY OF METRO DENVER", STRUCTURED PARKING SPACES IN THE DENVER METROPOLITAN AREA COST TWENTY-FIVE THOUSAND DOLLARS EACH TO BUILD IN 2020 AND USE SPACE THAT WOULD

OTHERWISE BE USED FOR REVENUE GENERATING RESIDENTIAL UNITS, DECREASING THE PROFITABILITY OF RESIDENTIAL DEVELOPMENT. AS A RESULT, PARKING REQUIREMENTS THAT NECESSITATE THE CONSTRUCTION OF STRUCTURED PARKING SPACES MAY DISCOURAGE DEVELOPERS FROM BUILDING NEW RESIDENTIAL PROJECTS, OR, IF THEY DO MOVE FORWARD WITH PROJECTS, FORCE THEM TO RECOUP THE COSTS OF BUILDING EXCESSIVE PARKING BY INCREASING HOUSING PRICES.

(s) OFF-STREET SURFACE PARKING COSTS UP TO TEN THOUSAND DOLLARS PER SPACE, AND EACH SPACE REQUIRES UP TO TWO AND ONE-HALF TIMES ITS SQUARE FOOTAGE TO ACCOMMODATE. AS A RESULT, OFF-STREET SURFACE PARKING REQUIREMENTS ALSO MAY DISCOURAGE DEVELOPERS FROM BUILDING NEW RESIDENTIAL PROJECTS, OR, IF THEY DO MOVE FORWARD WITH PROJECTS, FORCE THEM TO BUILD FEWER UNITS THAN THEY OTHERWISE COULD AND RECOUP THE EXCESSIVE COST BY INCREASING HOME PRICES AND RENTS. AN ANALYSIS CONDUCTED BY THE PARKING REFORM NETWORK FOUND THAT AN OFF-STREET PARKING SPACE CAN ADD BETWEEN TWO HUNDRED AND FIVE HUNDRED DOLLARS PER MONTH IN RENT. WHETHER THESE COSTS ARE NECESSARY VARIES FROM ONE BUILDING PROJECT TO THE NEXT, AND THOSE VARIABLES ARE NOT ACCOUNTED FOR IN MANDATED PARKING MINIMUMS.

(t) MINIMUM PARKING REQUIREMENTS PUT SMALL BUSINESSES AT A DISADVANTAGE RELATIVE TO LARGE CORPORATIONS. LARGE CORPORATIONS HAVE MORE CAPITAL AT THEIR DISPOSAL TO FULFILL COSTLY PARKING REQUIREMENTS AND ARE LESS RELIANT ON FOOT TRAFFIC, HUMAN-SCALE VISIBILITY, AND A SENSE OF PLACE TO ATTRACT CUSTOMERS.

(u) IMPERVIOUS SURFACES SUCH AS THOSE BUILT FOR VEHICLE PARKING CREATE AN URBAN HEAT ISLAND EFFECT, CONTRIBUTING TO RISING TEMPERATURES, INCREASING ENERGY COSTS FOR AIR CONDITIONING, AND WORSENING GROUND LEVEL AIR QUALITY. EXCESSIVE LAND COVERAGE OF THIS KIND MAKES STORMWATER MANAGEMENT DIFFICULT AND EXPENSIVE, AND CONTRIBUTES TO FLASH FLOODING AND EROSION, CAUSING INTERJURISDICTIONAL CONFLICTS AND LEGAL DISPUTES.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE REQUIRED MINIMUM AMOUNT OF PARKING SPACES FOR A REAL PROPERTY IS A MATTER OF MIXED STATEWIDE AND LOCAL CONCERN.

29-36-102. Definitions. AS USED IN THIS ARTICLE 36, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADAPTIVE REUSE" MEANS THE CONVERSION OF AN EXISTING STRUCTURE FROM THE USE FOR WHICH IT WAS CONSTRUCTED TO A NEW USE BY MAINTAINING ELEMENTS OF THE STRUCTURE AND ADAPTING SUCH ELEMENTS TO A NEW USE.

(2) "APPLICABLE TRANSIT PLAN" MEANS A PLAN OF A TRANSIT AGENCY WHOSE SERVICE TERRITORY IS WITHIN A METROPOLITAN PLANNING ORGANIZATION, INCLUDING A SYSTEM OPTIMIZATION PLAN OR A TRANSIT MASTER PLAN THAT:

(a) HAS BEEN APPROVED BY THE GOVERNING BODY OF A TRANSIT AGENCY ON OR AFTER JANUARY 1, 2019, AND ON OR BEFORE JANUARY 1, 2024;

(b) IDENTIFIES THE PLANNED FREQUENCY AND SPAN OF SERVICE FOR TRANSIT SERVICE OR SPECIFIC TRANSIT ROUTES; AND

(c) IDENTIFIES SPECIFIC TRANSIT ROUTES FOR SHORT-TERM IMPLEMENTATION ACCORDING TO THAT PLAN, OR IMPLEMENTATION BEFORE JANUARY 1, 2027.

(3) "APPLICABLE TRANSIT SERVICE AREA" MEANS AN AREA DESIGNATED BY THE MAP CREATED IN SECTION 29-36-106.

(4) "BUS RAPID TRANSIT SERVICE" MEANS A TRANSIT SERVICE THAT:

(a) IS IDENTIFIED AS BUS RAPID TRANSIT BY A TRANSIT AGENCY, IN A METROPOLITAN PLANNING ORGANIZATION'S FISCALLY CONSTRAINED LONG RANGE TRANSPORTATION PLAN OR IN AN APPLICABLE TRANSIT PLAN; AND

(b) INCLUDES ANY NUMBER OF THE FOLLOWING:

(I) SERVICE THAT IS SCHEDULED TO RUN EVERY FIFTEEN MINUTES OR LESS FOR FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE;

(II) DEDICATED LANES OR BUSWAYS;

- (III) TRAFFIC SIGNAL PRIORITY;
- (IV) OFF-BOARD FARE COLLECTION;
- (V) ELEVATED PLATFORMS; OR
- (VI) ENHANCED STATIONS.

(5) "COMMUNITY-BASED ORGANIZATION" MEANS A COLORADO-BASED NONPROFIT ENTITY THAT:

(a) HAS A MISSION TO IMPROVE THE ENVIRONMENTAL, ECONOMIC, SOCIAL, CULTURAL, OR QUALITY OF LIFE CONDITIONS OF A COMMON COMMUNITY OF INTEREST;

(b) IS ACCESSIBLE FOR RESIDENTS OF ALL AGES, INCOMES, LANGUAGES, AND ABILITIES; OR

(c) ADDRESSES THE NEEDS OF DISPROPORTIONATELY IMPACTED AND MARGINALIZED COMMUNITIES IN THE REGION AND CENTERS VOICES OF MARGINALIZED COMMUNITIES IN TRANSPORTATION PLANNING, BOTH IN THEIR COMMUNITY AND AROUND THE REGION.

(6) "COMMUTER BUS RAPID TRANSIT SERVICE" MEANS A BUS RAPID TRANSIT SERVICE THAT OPERATES FOR A MAJORITY OF ITS ROUTE ON A FREEWAY WITH ACCESS THAT IS LIMITED TO GRADE-SEPARATED INTERCHANGES.

(7) "COUNTY" MEANS A COUNTY, INCLUDING A HOME RULE COUNTY BUT EXCLUDING A CITY AND COUNTY.

(8) "LAND USE APPROVAL" MEANS ANY FINAL ACTION OF A LOCAL GOVERNMENT THAT HAS THE EFFECT OF AUTHORIZING THE USE OR DEVELOPMENT OF A PARTICULAR PARCEL OF REAL PROPERTY.

(9) "LOADING SPACE" MEANS AN OFF-STREET SPACE OR BERTH THAT:

(a) IS ON THE SAME SITE WITH A BUILDING OR CONTIGUOUS TO A GROUP OF BUILDINGS;

(b) IS DESIGNATED FOR THE TEMPORARY PARKING OF EITHER:

(I) A COMMERCIAL VEHICLE WHILE MATERIALS ARE LOADED IN OR UNLOADED FROM THE VEHICLE; OR

(II) A VEHICLE WHILE PASSENGERS BOARD OR DISEMBARK FROM THE VEHICLE; AND

(c) ABUTS UPON A STREET, ALLEY, OR OTHER MEANS OF ACCESS.

(10) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY THAT IS WITHIN A METROPOLITAN PLANNING ORGANIZATION OR A COUNTY THAT HAS UNINCORPORATED AREAS WITHIN A METROPOLITAN PLANNING ORGANIZATION.

(11) "LOCAL LAW" MEANS ANY CODE, LAW, ORDINANCE, POLICY, REGULATION, OR RULE ENACTED BY A LOCAL GOVERNMENT THAT GOVERNS THE DEVELOPMENT AND USE OF LAND, INCLUDING LAND USE CODES, ZONING CODES, AND SUBDIVISION CODES.

(12) "MAXIMUM PARKING REQUIREMENT" MEANS A REQUIREMENT ESTABLISHED IN LOCAL LAW THAT LIMITS THE NUMBER OF PARKING SPACES THAT MAY BE MADE AVAILABLE IN CONNECTION WITH A REAL PROPERTY.

(13) "METROPOLITAN PLANNING ORGANIZATION" MEANS A METROPOLITAN PLANNING ORGANIZATION UNDER THE "FEDERAL TRANSIT ACT OF 1998", 49 U.S.C. SEC. 5301 ET SEQ., AS AMENDED.

(14) "MINIMUM PARKING REQUIREMENT" MEANS A REQUIREMENT ESTABLISHED IN LOCAL LAW THAT A NUMBER OF PARKING SPACES BE MADE AVAILABLE IN CONNECTION WITH A REAL PROPERTY.

(15) "MUNICIPALITY" MEANS A HOME RULE OR STATUTORY CITY OR TOWN, TERRITORIAL CHARTER CITY OR TOWN, OR CITY AND COUNTY.

(16) "PARKING SPACE" MEANS AN OFF-STREET SPACE DESIGNATED FOR MOTOR VEHICLE PARKING. A PARKING SPACE DOES NOT INCLUDE A LOADING SPACE.

(17) "REGULATED AFFORDABLE HOUSING" MEANS AFFORDABLE

HOUSING THAT:

(a) HAS RECEIVED LOANS, GRANTS, EQUITY, BONDS, OR TAX CREDITS FROM ANY SOURCE TO SUPPORT THE CREATION, PRESERVATION, OR REHABILITATION OF AFFORDABLE HOUSING THAT, AS A CONDITION OF FUNDING, ENCUMBERS THE PROPERTY WITH A RESTRICTED USE COVENANT OR SIMILAR RECORDED AGREEMENT TO ENSURE AFFORDABILITY, OR HAS BEEN INCOME-RESTRICTED UNDER A LOCAL INCLUSIONARY ZONING ORDINANCE OR OTHER REGULATION OR PROGRAM;

(b) RESTRICTS OR LIMITS MAXIMUM RENTAL OR SALE PRICE FOR HOUSEHOLDS OF A GIVEN SIZE AT A GIVEN AREA MEDIAN INCOME, AS ESTABLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND

(c) ENSURES OCCUPANCY BY LOW- TO MODERATE-INCOME HOUSEHOLDS FOR A SPECIFIED PERIOD DETAILED IN A RESTRICTIVE USE COVENANT OR SIMILAR RECORDED AGREEMENT.

29-36-103. Limitations on minimum parking requirements.

(1) ON OR AFTER JUNE 30, 2025, A MUNICIPALITY SHALL NEITHER ENACT NOR ENFORCE LOCAL LAWS THAT ESTABLISH A MINIMUM PARKING REQUIREMENT THAT APPLIES TO A LAND USE APPROVAL FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT, ADAPTIVE RE-USE FOR RESIDENTIAL PURPOSES, OR ADAPTIVE RE-USE MIXED-USE PURPOSES WHICH INCLUDE AT LEAST FIFTY PERCENT OF USE FOR RESIDENTIAL PURPOSES THAT IS WITHIN THE MUNICIPALITY, A METROPOLITAN PLANNING ORGANIZATION, AND AT LEAST PARTIALLY WITHIN AN APPLICABLE TRANSIT SERVICE AREA.

(2) ON OR AFTER JUNE 30, 2025, A COUNTY SHALL NEITHER ENACT NOR ENFORCE LOCAL LAWS THAT ESTABLISH A MINIMUM PARKING REQUIREMENT THAT APPLIES TO A LAND USE APPROVAL FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT, ADAPTIVE RE-USE FOR RESIDENTIAL PURPOSES, OR ADAPTIVE RE-USE MIXED-USE PURPOSES WHICH INCLUDE AT LEAST FIFTY PERCENT OF USE FOR RESIDENTIAL PURPOSES THAT IS WITHIN THE UNINCORPORATED AREA OF THE COUNTY, A METROPOLITAN PLANNING ORGANIZATION, AND AT LEAST PARTIALLY WITHIN AN APPLICABLE TRANSIT SERVICE AREA.

(3) NOTHING IN THIS SECTION:

(a) LOWERS THE PROTECTIONS PROVIDED FOR PERSONS WITH DISABILITIES, INCLUDING THE NUMBER OF PARKING SPACES FOR PERSONS WHO ARE MOBILITY IMPAIRED, UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND PARTS 6 AND 8 OF ARTICLE 34 OF TITLE 24;

(b) PREVENTS A LOCAL GOVERNMENT FROM ENACTING OR ENFORCING LOCAL LAWS THAT ESTABLISH A MAXIMUM PARKING REQUIREMENT;

(c) PREVENTS A LOCAL GOVERNMENT OR A DEVELOPER FROM BEING AWARDED FUNDING FOR AFFORDABLE HOUSING THAT REQUIRES A RATIO OF A CERTAIN NUMBER OF PARKING SPACES;

(d) AFFECTS THE ABILITY OF A LOCAL GOVERNMENT TO ENFORCE ANY AGREEMENT MADE IN CONNECTION WITH A LAND USE APPROVAL PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 24-1304, ENACTED IN 2024, TO PROVIDE REGULATED AFFORDABLE HOUSING IN EXCHANGE FOR REDUCING MINIMUM PARKING REQUIREMENTS;

(e) PREVENTS A LOCAL GOVERNMENT FROM ENACTING OR ENFORCING LOCAL LAWS THAT ESTABLISH A MINIMUM REQUIREMENT FOR BICYCLE PARKING; OR

(f) PREVENTS A LOCAL GOVERNMENT FROM IMPOSING THE FOLLOWING REQUIREMENTS ON A PARKING SPACE THAT IS VOLUNTARILY PROVIDED IN CONNECTION WITH A LAND USE APPROVAL:

(I) THAT THE OWNERS OF SUCH A PARKING SPACE CHARGE FOR THE USE OF THE SPACE;

(II) THAT THE OWNER OF A SUCH A PARKING SPACE CONTRIBUTE TO A PARKING ENTERPRISE, PERMITTING SYSTEM, OR SHARED PARKING PLAN; AND

(III) THAT SUCH A PARKING SPACE ALLOWS FOR ELECTRIC VEHICLE CHARGING STATIONS IN ACCORDANCE WITH EXISTING LAW.

29-36-104. Limitations on minimum parking requirements.

(1) NOTWITHSTANDING SECTION 29-36-103, A LOCAL GOVERNMENT MAY

IMPOSE OR ENFORCE A MINIMUM PARKING REQUIREMENT IN CONNECTION WITH A HOUSING DEVELOPMENT PROJECT THAT IS INTENDED TO CONTAIN TWENTY UNITS OR MORE OR CONTAIN REGULATED AFFORDABLE HOUSING BY REQUIRING NO MORE THAN ONE PARKING SPACE PER DWELLING UNIT IN THE HOUSING DEVELOPMENT.

(2) (a) IN ORDER TO IMPOSE A MINIMUM PARKING REQUIREMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION IN CONNECTION WITH A HOUSING DEVELOPMENT PROJECT, A LOCAL GOVERNMENT MUST, NO LATER THAN NINETY DAYS AFTER RECEIVING A COMPLETED APPLICATION FOR THE HOUSING DEVELOPMENT PROJECT, PUBLICLY PUBLISH WRITTEN FINDINGS THAT FIND THAT NOT IMPOSING OR ENFORCING A MINIMUM PARKING REQUIREMENT IN CONNECTION WITH THE HOUSING DEVELOPMENT PROJECT WOULD HAVE A SUBSTANTIAL NEGATIVE IMPACT.

(b) A LOCAL GOVERNMENT'S WRITTEN FINDINGS PUBLISHED PURSUANT TO SUBSECTION (2)(a) MUST:

(I) BE SUPPORTED BY SUBSTANTIAL EVIDENCE THAT SUPPORTS THE FINDING OF A SUBSTANTIAL NEGATIVE IMPACT ON:

(A) SAFE PEDESTRIAN, BICYCLE, OR EMERGENCY ACCESS TO THE HOUSING DEVELOPMENT PROJECT; OR

(B) EXISTING ON- OR OFF-STREET PARKING SPACES WITHIN ONE EIGHTH-MILE OF THE HOUSING DEVELOPMENT PROJECT;

(II) BE REVIEWED AND APPROVED BY A PROFESSIONAL ENGINEER, AS DEFINED IN SECTION 12-120-202 (7).

(III) INCLUDE PARKING UTILIZATION DATA COLLECTED FROM THE AREA WITHIN ONE EIGHTH-MILE OF THE HOUSING DEVELOPMENT PROJECT; AND

(IV) DEMONSTRATE THAT THE LOCAL GOVERNMENT IMPLEMENTATION OF STRATEGIES TO MANAGE DEMAND FOR ON-STREET PARKING FOR THE AREA WITHIN ONE EIGHTH-MILE OF THE HOUSING DEVELOPMENT PROJECT WOULD NOT BE EFFECTIVE TO MITIGATE A SUBSTANTIAL NEGATIVE IMPACT FOUND PURSUANT TO THIS SECTION.

(3) ON OR BEFORE DECEMBER 31, 2026, AND EVERY DECEMBER 31ST THEREAFTER, IF APPLICABLE, A LOCAL GOVERNMENT SHALL, IN A FORM AND MANNER DETERMINED BY THE DEPARTMENT OF LOCAL AFFAIRS, SUBMIT INFORMATION REGARDING A MINIMUM PARKING REQUIREMENT IMPOSED OR ENFORCED PURSUANT TO THIS SECTION TO THE DEPARTMENT OF LOCAL AFFAIRS.

(4) THE DEPARTMENT OF LOCAL AFFAIRS MAY ISSUE POLICIES AND PROCEDURES AS NECESSARY TO IMPLEMENT THIS SECTION.

29-36-105. Parking management technical assistance. (1)(a) ON OR BEFORE DECEMBER 31, 2024, THE DEPARTMENT OF LOCAL AFFAIRS, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, AND THE COLORADO ENERGY OFFICE, SHALL, WITHIN EXISTING RESOURCES, TO THE EXTENT FEASIBLE, DEVELOP AND PUBLISH BEST PRACTICES AND TECHNICAL ASSISTANCE MATERIALS CONCERNING OPTIMIZING PARKING SUPPLY AND MANAGING PARKING IN WAYS THAT INCREASE THE PRODUCTION OF AFFORDABLE HOUSING AND HOUSING SUPPLY. THESE BEST PRACTICES AND TECHNICAL ASSISTANCE MATERIALS MUST INCLUDE, BUT ARE NOT LIMITED TO, ELEMENTS RELATED TO:

(I) THE IMPLEMENTATION OF LOCAL PARKING MAXIMUMS;

(II) SAMPLE LANGUAGE TO REPLACE EXISTING LOCAL PARKING CODES WITH OTHER INCENTIVES FOR THE PRODUCTION OF AFFORDABLE HOUSING, TRANSPORTATION DEMAND MANAGEMENT STRATEGIES, AND OTHER DESIRED OUTCOMES;

(III) THE DESIGN AND IMPLEMENTATION OF PARKING BENEFIT DISTRICTS AND ON-STREET PARKING MANAGEMENT;

(IV) STRATEGIES FOR DEVELOPERS TO MANAGE THE SUPPLY AND PRICE OF PARKING SPACES TO MINIMIZE PARKING DEMAND BASED ON DIFFERENT LOCATION AND LAND USE CHARACTERISTICS AND TAKING INTO CONSIDERATION THE NUMBER OF RESIDENTS WHO NEED ACCESS TO PARKING AND ACCESS TO MASS TRANSIT;

(V) STRATEGIES THAT PRIORITIZE THE TRANSPORTATION NEEDS OF RESIDENTS OF REGULATED AFFORDABLE HOUSING, LOW-INCOME COMMUNITIES, AND COMMUNITIES WITH LOW RATES OF CAR OWNERSHIP;

(VI) STRATEGIES TO OPTIMIZE THE USE OF EXISTING PARKING THROUGH SHARED PARKING AGREEMENTS AND OTHER STRATEGIES; AND

(VII) INFORMATION FROM AFFORDABLE HOUSING PROVIDERS AND EXISTING STUDIES ON PARKING NEEDS FOR RESIDENTS OF REGULATED AFFORDABLE HOUSING BASED ON DIFFERENT LOCATION AND LAND USE CHARACTERISTICS.

(b) (I) IN DEVELOPING THE MATERIALS AND BEST PRACTICES DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, THE DEPARTMENT OF LOCAL AFFAIRS SHALL CONSULT WITH VARIOUS STAKEHOLDERS, INCLUDING LOCAL GOVERNMENTS, METROPOLITAN PLANNING ORGANIZATIONS, DISPROPORTIONATELY IMPACTED COMMUNITIES, COMMUNITY-BASED ORGANIZATIONS, AFFORDABLE HOUSING PROVIDERS, TRANSIT AGENCIES, AND ACTIVE TRANSPORTATION ORGANIZATIONS. IN CONSULTING WITH THESE STAKEHOLDERS, THE DEPARTMENT OF LOCAL AFFAIRS MAY COLLECT THIS FEEDBACK THROUGH MULTIPLE MEANS, INCLUDING ONLINE OR IN-PERSON SURVEYS OR PUBLIC FEEDBACK SESSIONS.

(2) DURING THE FIRST REGULAR SESSION OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, THE DEPARTMENT OF LOCAL AFFAIRS SHALL PRESENT THE MATERIALS AND BEST PRACTICES DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION TO THE LOCAL GOVERNMENT AND HOUSING COMMITTEE OF THE SENATE AND THE TRANSPORTATION, HOUSING AND LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES OR THEIR SUCCESSOR COMMITTEES.

29-36-106. Applicable transit service areas map. (1) ON OR BEFORE SEPTEMBER 30, 2024, THE DEPARTMENT OF LOCAL AFFAIRS, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, COLORADO ENERGY OFFICE, METROPOLITAN PLANNING ORGANIZATIONS, AND TRANSIT AGENCIES THAT OPERATE WITHIN METROPOLITAN PLANNING ORGANIZATIONS, SHALL PUBLISH A MAP THAT DESIGNATES APPLICABLE TRANSIT SERVICE AREAS TO BE USED BY LOCAL GOVERNMENTS IN COMPLYING WITH THIS PART 1.

(2) IN PUBLISHING THE MAP DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT OF LOCAL AFFAIRS SHALL DESIGNATE APPLICABLE TRANSIT SERVICE AREAS AS AREAS THAT ARE WITHIN:

(a) ONE-QUARTER MILE OF EXISTING STATIONS SERVED BY ROUTES IDENTIFIED IN AN APPLICABLE TRANSIT PLAN FOR:

(I) COMMUTER BUS RAPID TRANSIT;

(II) COMMUTER RAIL WITH PLANNED OR SCHEDULED SERVICE THAT IS SCHEDULED TO RUN EVERY THIRTY MINUTES OR MORE FREQUENT BETWEEN SEVEN A.M. AND TEN A.M. AND BETWEEN FOUR P.M. AND SEVEN P.M.;

(III) LIGHT RAIL WITH PLANNED OR SCHEDULED SERVICE THAT IS SCHEDULED TO RUN EVERY THIRTY MINUTES OR MORE FREQUENT BETWEEN SEVEN A.M. AND TEN A.M. AND BETWEEN FOUR P.M. AND SEVEN P.M.; AND

(IV) A PUBLIC BUS ROUTE THAT HAS A PLANNED OR SCHEDULED FREQUENCY OF EVERY THIRTY MINUTES OR MORE FREQUENT FOR FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE;

(b) ONE-QUARTER MILE OF CURRENTLY PLANNED OR EXISTING STATIONS AND STOPS SERVED BY PUBLIC BUS ROUTES THAT:

(I) HAVE A PLANNED OR SCHEDULED FREQUENCY OF EVERY THIRTY MINUTES OR MORE FREQUENT FOR FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE; AND

(II) ARE IDENTIFIED WITHIN AN APPLICABLE TRANSIT PLAN FOR SHORT-TERM IMPLEMENTATION OR IMPLEMENTATION BEFORE JANUARY 1, 2030, ACCORDING TO THAT PLAN; OR

(c) FOR TRANSIT AGENCIES WITHIN METROPOLITAN PLANNING ORGANIZATIONS THAT DO NOT HAVE APPLICABLE TRANSIT PLANS, ONE-QUARTER MILE OF PUBLIC BUS ROUTES WITH EXISTING TRANSIT SERVICE LEVELS AS OF JANUARY 1, 2024, WITH A SCHEDULED FREQUENCY OF EVERY THIRTY MINUTES OR MORE FREQUENT DURING THE FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE.

SECTION 2. In Colorado Revised Statutes, 29-20-104, **amend** (1) introductory portion as follows:

29-20-104. Powers of local governments - definition. (1) Except

as expressly provided in section 29-20-104.2, or SECTION 29-20-104.5, AND ARTICLE 36 OF THIS TITLE 29, the power and authority granted by this section does not limit any power or authority presently exercised or previously granted. Except as provided in section 29-20-104.2, each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

SECTION 3. In Colorado Revised Statutes, 30-15-401, amend (1)(h)(I)(B) as follows:

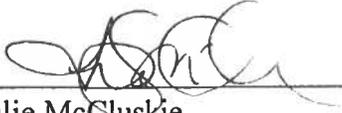
30-15-401. General regulations - definitions. (1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article 15, the board of county commissioners may adopt ordinances for control or licensing of those matters of purely local concern that are described in the following enumerated powers:

(h) (I) To control and regulate the movement and parking of vehicles and motor vehicles on public property; except that:

(B) For the purposes of any minimum parking requirement a board of county commissioners imposes, the board of county commissioners is subject to ~~section 30-28-140~~ ARTICLE 36 OF TITLE 29 AND SECTION 30-28-140; and

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

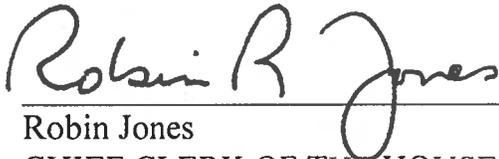
November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

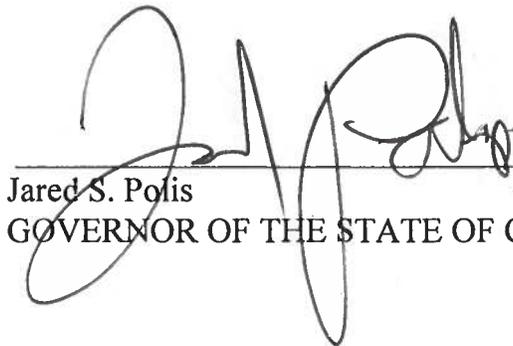


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED Friday May 10th 2024 at 12:15 PM
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Notice of Public Hearing
Town Council, Town of Erie

Notice is hereby given that on Tuesday, June 10, 2025 at 6:30 p.m. or as soon as possible thereafter, the Erie Town Council will hold a public hearing to consider an Ordinance Amending Title 10 of the Erie Municipal Code Regarding Accessory Dwelling Units, Assembly Uses, and Minimum Parking.

The public hearing will be held at the Erie Town Hall Council Chambers, 645 Holbrook Street, Erie, CO 80516. Any person may appear at the public hearing and be heard regarding the matters under consideration. A copy of the proposed ordinance is on file and available for public inspection in the office of the Town Clerk.

Debbie Stamp
Town Clerk

For questions or comments, contact:
Town of Erie Planning & Development Department
P.O. Box 750
Erie, Colorado 80516
Phone: (303) 926-2770

Please publish in the Colorado Hometown Weekly on Wednesday, May 21, 2025.
Please send the affidavit of publication and billing to:

Town Clerk
Town of Erie
P.O. Box 750
Erie, CO 80516



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 6/10/2025

File #: 25-389, **Version:** 1

SUBJECT:

EXECUTIVE SESSION: (1) To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(c); and to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a); all regarding the Erie Town Center; and (2) To hold a conference with the Town Attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(c); and to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a); all regarding the purchase and sale agreement with Tebo Properties LLC.

DEPARTMENT: Administrative Operations

PRESENTER(S):

TIME ESTIMATE: 60 minutes

For time estimate: please put 0 for Consent items.

FISCAL SUMMARY:

NA

POLICY ISSUES:

NA

STAFF RECOMMENDATION:

NA

SUMMARY/KEY POINTS

NA

BACKGROUND OF SUBJECT MATTER:

NA

TOWN COUNCIL PRIORITY(S) ADDRESSED:

Attractive Community Amenities

File #: 25-389, **Version:** 1

- Engaged and Diverse Community
- Prosperous Economy
- Well-Maintained Transportation Infrastructure
- Small Town Feel
- Safe and Healthy Community
- Effective Governance
- Environmentally Sustainable
- Fiscally Responsible

ATTACHMENT(S):

Sixth Amendment to Lease Agreement

This Sixth Amendment to Lease Agreement (the "Amendment") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and Vector Air Management, LLC, a Colorado limited liability company with a principal place of business at 395 Airport Drive, Erie, CO 80516 ("Lessee") (each a "Party" and collectively the "Parties").

Whereas, the Town is the owner and operator of the Erie Municipal Airport, more particularly described in **Exhibit A**, attached and incorporated by this reference (the "Airport");

Whereas, on December 12, 2023, the Parties entered into a Lease Agreement for the Airport;

Whereas, on March 26, 2024, the Parties amended the Lease Agreement to extend the term (the "First Amendment");

Whereas, on June 25, 2024, the Parties amended the Lease Agreement to extend the term (the "Second Amendment");

Whereas, on September 24, 2024, the Parties amended the Lease Agreement to extend the term (the "Third Amendment");

Whereas, on December 10, 2024, the Parties amended the Lease Agreement to extend the term (the "Fourth Amendment");

Whereas, on March 11, 2025, the Parties amended the Lease Agreement to extend the term (the "Fifth Amendment"); and

Whereas, the Parties wish to amend the Lease Agreement again to extend the term.

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The term of the Lease Agreement shall be extended through December 31, 2025.
2. All other provisions of the Lease Agreement shall remain in full force and effect as written.

In Witness Whereof, the Parties have executed this Fourth Amendment as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Lessee

DocuSigned by:
Jason Hurd
0B9FF46A3D3648F...

State of Colorado)
) ss.
County of _____)

Subscribed, sworn to and acknowledged before me this _____ day of _____, 2025, by _____ as _____ of Vector Air Management, LLC.

My Commission expires:

(Seal)

Notary Public