

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT
(Erie Commons Filing No. 4)

THIS THIRD AMENDMENT TO DEVELOPMENT AGREEMENT (the "Third Amendment") is made and entered into this ____ day of _____, 2019 (the "Effective Date"), by and between the TOWN OF ERIE, a Colorado municipal corporation with an address of 645 Holbrook Street, Erie, CO 80165 (the "Town"), and COMMUNITY DEVELOPMENT GROUP OF ERIE, INC., a Colorado corporation with an address of 1209 Pearl Street, Suite 14, Boulder, CO 80302 ("Developer") (each a "Party" and collectively the "Parties").

WHEREAS, on August 3, 2006, the Town and Developer entered into the Erie Commons Filing 4 Development Agreement, recorded at Reception No. 3413826 (the "Agreement");

WHEREAS, on September 12, 2006, the Agreement was assigned to Shea Homes Limited Partnership, but that assignment was terminated when Shea Homes Limited Partnership failed to purchase the Property;

WHEREAS, on February 13, 2007, Developer entered into the First Amendment to the Erie Commons Filing 4 Development Agreement, recorded at Reception No. 3722545;

WHEREAS, on September 28, 2010, Developer entered into the Second Amendment to the Erie Common Filing 4 Development Agreement, recorded at Reception No. 3722551;

WHEREAS, Developer has submitted an application for the Erie Commons Filing No. 4, 3rd Amendment Final Plat (the "Final Plat"); and

WHEREAS, the Parties wish to amend the Agreement by the addition of a new Section XII to address the Final Plat.

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 Agreement is hereby amended by the addition of a new Section XII, to read as follows:

XII. SPECIAL PROVISIONS APPLICABLE TO THE ERIE COMMONS FILING NO. 4 3RD AMENDMENT FINAL PLAT

In addition to all other obligations in this Agreement, the Erie Commons Filing No. 4 3rd Amendment Final Plat shall be subject to the following special provisions:

A. Public Improvements and Common Facilities. The Public Improvements and Common Facilities associated with the Final Plat are set forth in **Exhibit B-1**, attached hereto and incorporated herein by this reference.

B. Reimbursements.

1. The reimbursements associated with the development subject to the Final Plat are set forth in **Exhibit C-1**, attached hereto and incorporated herein by this reference.

2. Developer shall install a 12" reuse water line as shown on the Approved Construction Plans. Developer shall be responsible for the costs of installing a 8" reuse water line, and the Town will be responsible for the costs of upsizing the pipe from 8" to 12" as more particularly set forth in **Exhibit C-1**. Developer shall obtain an easement for the reuse line from the property owner on the west side of Briggs Street.

C. Phasing. The development subject to the Final Plat shall be completed in four separate phases (each a "Phase" and collectively the "Phases"), as set forth in **Exhibit D-1**, attached hereto and incorporated herein by this reference, and subject to the following:

1. All Public Improvements listed on **Exhibit E-1**, attached hereto and incorporated herein by this reference, shall be installed in Phase 1. No building permits shall be issued for any subsequent Phase until the Town has issued Initial Acceptance of all Public Improvements in the prior Phase.

2. The unpaved portion of Ambrose Street shall be paved before the Town will issue any building permits, other than building permits for model homes.

3. Building permits may be issued for model homes on Lots 1-4 of Block 7 at such time as the nearest fire hydrant is active, the public utilities serving these units are installed, and a 20' wide alley is constructed thru Tract H, connecting Ambrose Street to South Briggs Street. As additional units are completed in Block 7, additional pavement shall be installed connecting each unit to the alley.

4. The final mill and overlay of Ambrose Street shall occur at the time of Final Acceptance of the Public Improvements in Phase 4, or the completion of the last foundation for a building in Phase 4, whichever occurs last.

D. Open Space, Parks, Landscaping and Trails.

1. No building permits shall be issued in Phase 2 or 3 until the Coal Creek Trail has been re-aligned in accordance with the approved site development plan and any disturbed areas have been reseeded.

2. All Landscaping on Tracts D, V, W, X, Y and Z shall be maintained by the Coal Creek Commons Homeowners' Association.

3. Developer shall use non-potable irrigation for the landscaping on Tracts D, V, W, X, Y, and Z.

E. Utilities. The Town shall not issue Initial Acceptance of the underground utility Public Improvements shown on **Exhibit E-1**, attached hereto and incorporated herein by this reference, until Developer installs and the Town Engineer approves a temporary protective cover of at least 20 feet in width over each of the underground utilities.

2. Developer or its assignee shall provide to the Town the performance guarantee required by the Agreement and the Erie Municipal Code within 60 days of the Effective Date. If such performance guarantee is not provided within such time, this Third Amendment shall automatically expire without further action of the Parties.

3. The Parties acknowledge that Developer intends to transfer the property subject to the Final Plat and to assign the obligations set forth in this Third Amendment to Century Land Holdings, LLC, a Colorado limited liability company with an address of 8390 East Crescent Parkway, Suite 650, Greenwood Village, CO 80111 ("Century"), and that Developer has provided written notice to the Town of such transfer and assignment. By execution of this Third Amendment, the Town hereby consents to the transfer and assignment, on the condition that Century provides written evidence to the Town that, upon such transfer and assignment, Century will be the responsible party under the performance guarantee.

IN WITNESS WHEREOF, the Parties have executed this Third Amendment as of the Effective Date.

TOWN OF ERIE, COLORADO

Jennifer Carroll, Mayor

ATTEST:

Jessica Koenig, Town Clerk

DEVELOPER

By: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this ____ day of _____, 2019, by _____ as the _____ of Community Development Group of Erie, Inc.

My commission expires:

(S E A L)

Notary Public

EXHIBIT B-1
ENGINEER'S PROJECTION OF PROBABLE COSTS
ERIE COMMONS
FEBRUARY 27, 2019

PUBLIC IMPROVEMENTS

DESCRIPTION	QTY	UNITS	UNIT PRICE	TOTAL
WATER				
CONNECT TO EXISTING WATER LINE	3	EA	\$ 950.00	\$ 2,850.00
6" HORIZONTAL BENDS	7	EA	\$ 350.00	\$ 2,450.00
6" PLUG W/2" BLOW OFF	1	EA	\$ 1,200.00	\$ 1,200.00
8" PVC	1,955	LF	\$ 28.50	\$ 55,717.50
8" HORIZONTAL BENDS	10	EA	\$ 425.00	\$ 4,250.00
8" VERTICAL LOWERING	1	EA	\$ 4,700.00	\$ 4,700.00
8" GATE VALVE	16	EA	\$ 1,460.00	\$ 23,360.00
8"X8" TEE	4	EA	\$ 950.00	\$ 3,800.00
FIRE HYDRANT ASSEMBLY	9	EA	\$ 5,300.00	\$ 47,700.00
WATER SERVICES	75	EA	\$ 1,230.00	\$ 92,250.00
8" PVC RAW WATER LINE	-	LF	\$ 28.50	\$ -
12" PVC RAW WATER LINE	1,828	LF	\$ 42.00	\$ 76,776.00
IRRIGATION SERVICE	1	EA	\$ 3,200.00	\$ 3,200.00
WATER SUBTOTAL				\$ 318,253.50
SANITARY SEWER				
CONNECT TO EXISTING SANITARY	1	EA	\$ 1,000.00	\$ 1,000.00
8" PVC SEWER PIPE	1,416	LF	\$ 31.00	\$ 43,896.00
4' DIAMETER MANHOLE	17	EA	\$ 2,500.00	\$ 42,500.00
SANITARY SERVICES	75	EA	\$ 1,100.00	\$ 82,500.00
SANITARY SEWER SUBTOTAL				\$ 169,896.00
STREETS				
6" VERTICAL CURB AND GUTTER	3,198	LF	\$ 14.75	\$ 47,170.50
CONCRETE SIDEWALK (5')	9,671	SF	\$ 4.00	\$ 38,684.00
CONCRETE SIDEWALK (10')	6,184	SF	\$ 4.00	\$ 24,736.00
CONCRETE CROSSSPAN	1	EA	\$ 2,300.00	\$ 2,300.00
CONCRETE CURB RAMP	2	EA	\$ 1,200.00	\$ 2,400.00
CONCRETE DRIVE CUT	7	EA	\$ 2,500.00	\$ 17,500.00
7" HMA (LOCAL ROADS)	2,687	SY	\$ 28.70	\$ 77,116.90
SIGNS	1	LS	\$ 1,800.00	\$ 1,800.00
STREETS SUBTOTAL				\$ 211,707.40
STORM DRAINAGE				
18" RCP	250	LF	\$ 70.00	\$ 17,500.00
24" RCP	416	LF	\$ 70.00	\$ 29,120.00
30" RCP	343	LF	\$ 70.00	\$ 24,010.00
30" FES	1	EA	\$ 2,000.00	\$ 2,000.00
5' TYPE R INLET	7	EA	\$ 4,500.00	\$ 31,500.00
10' TYPE R INLET	1	EA	\$ 5,800.00	\$ 5,800.00
4' DIA MANHOLE	6	EA	\$ 4,200.00	\$ 25,200.00
4" PERFORATED PVC BACK OF CURB DRAIN	3,198	LF	\$ 5.40	\$ 17,269.20
RIPRAP	60	SF	\$ 7.13	\$ 427.80
STORM DRAINAGE SUBTOTAL				\$ 152,827.00

EXHIBIT B-1
ENGINEER'S PROJECTION OF PROBABLE COSTS
ERIE COMMONS
FEBRUARY 27, 2019

DESCRIPTION	QTY	UNITS	UNIT PRICE	TOTAL
EROSION CONTROL				
SILT FENCE	2,346	LF	\$ 1.10	\$ 2,580.60
INLET/OUTLET PROTECTION	11	EA	\$ 300.00	\$ 3,300.00
CONCRETE WASHOUT AREA	1	EA	\$ 2,500.00	\$ 2,500.00
VEHICLE TRACKING PAD	1	EA	\$ 2,500.00	\$ 2,500.00
SEEDING AND MULCH	2	AC	\$ 850.00	\$ 1,768.00
EROSION CONTROL SUBTOTAL				\$ 12,648.60
PUBLIC IMPROVEMENTS TOTAL				\$ 865,332.50
CONTINGENCY (15%)				\$ 129,799.88
TOTAL WITH CONTINGENCY				\$ 995,132.38

EXHIBIT B-1
ENGINEER'S PROJECTION OF PROBABLE COSTS
ERIE COMMONS
FEBRUARY 27, 2019

COMMON FACILITIES - PHASE 1

COMMON AREA LANDSCAPING

CANOPY TREES	7	EA	\$	375.00	\$	2,625.00
ORNAMENTAL TREES	12	EA	\$	375.00	\$	4,500.00
EVERGREEN TREES	3	EA	\$	375.00	\$	1,125.00
DECIDUOUS SHRUBS	207	EA	\$	45.00	\$	9,315.00
EVERGREEN SHRUBS	67	EA	\$	45.00	\$	3,015.00
ORNAMENTAL GRASSES	251	EA	\$	18.00	\$	4,518.00
PERENNIALS	107	EA	\$	18.00	\$	1,926.00
STEEL EDGER	56	LF	\$	3.00	\$	168.00
ROCK MULCH	12,770	SF	\$	2.50	\$	31,925.00
SOD	3,731	SF	\$	0.70	\$	2,611.70
NATIVE SEED FOR ERIE ROW	-	SF	\$	0.30	\$	-
NATIVE SEED WITH WILDFLOWERS	2,380	SF	\$	0.30	\$	714.00
COMPOST	98	CY	\$	100.00	\$	9,800.00
WEED CONTROL FABRIC	12,770	SF	\$	0.45	\$	5,746.50
POST AND RAIL FENCE	117	LF	\$	8.00	\$	936.00
COMMON AREA LANDSCAPING SUBTOTAL						\$ 78,925.20

STREETS

CONCRETE SIDEWALK (4')	2,432	SF	\$	4.00	\$	9,728.00
8" CONCRETE DRIVE	1,015	SY	\$	49.50	\$	50,242.50
STREETS SUBTOTAL						\$ 59,970.50

PHASE 1 COMMON FACILITIES TOTAL **\$ 138,895.70**

CONTINGENCY (15%) **\$ 20,834.36**

TOTAL WITH CONTINGENCY **\$ 159,730.06**

EXHIBIT B-1
ENGINEER'S PROJECTION OF PROBABLE COSTS
ERIE COMMONS
FEBRUARY 27, 2019

COMMON FACILITIES - PHASE 2

COMMON AREA LANDSCAPING

CANOPY TREES	11	EA	\$	375.00	\$	4,125.00
ORNAMENTAL TREES	18	EA	\$	375.00	\$	6,750.00
EVERGREEN TREES	4	EA	\$	375.00	\$	1,500.00
DECIDUOUS SHRUBS	212	EA	\$	45.00	\$	9,540.00
EVERGREEN SHRUBS	77	EA	\$	45.00	\$	3,465.00
ORNAMENTAL GRASSES	319	EA	\$	18.00	\$	5,742.00
PERENNIALS	941	EA	\$	18.00	\$	16,938.00
STEEL EDGER	603	LF	\$	3.00	\$	1,809.00
ROCK MULCH	10,898	SF	\$	2.50	\$	27,245.00
SOD	6,666	SF	\$	0.70	\$	4,666.20
NATIVE SEED FOR ERIE ROW	-	SF	\$	0.30	\$	-
NATIVE SEED WITH WILDFLOWERS	9,937	SF	\$	0.30	\$	2,981.10
COMPOST	110	CY	\$	100.00	\$	11,000.00
WEED CONTROL FABRIC	10,898	SF	\$	0.45	\$	4,904.10
POST AND RAIL FENCE	554	LF	\$	8.00	\$	4,432.00
COMMON AREA LANDSCAPING SUBTOTAL					\$	105,097.40

STREETS

CONCRETE SIDEWALK (4')	3,391	SF	\$	4.00	\$	13,564.00
8" CONCRETE DRIVE	1,004	SY	\$	49.50	\$	49,698.00
STREETS SUBTOTAL					\$	63,262.00

PHASE 2 COMMON FACILITIES TOTAL **\$ 168,359.40**

CONTINGENCY (15%) **\$ 25,253.91**

TOTAL WITH CONTINGENCY **\$ 193,613.31**

EXHIBIT B-1
ENGINEER'S PROJECTION OF PROBABLE COSTS
ERIE COMMONS
FEBRUARY 27, 2019

COMMON FACILITIES - PHASE 3

COMMON AREA LANDSCAPING

CANOPY TREES	3	EA	\$	375.00	\$	1,125.00
ORNAMENTAL TREES	16	EA	\$	375.00	\$	6,000.00
EVERGREEN TREES	5	EA	\$	375.00	\$	1,875.00
DECIDUOUS SHRUBS	142	EA	\$	45.00	\$	6,390.00
EVERGREEN SHRUBS	67	EA	\$	45.00	\$	3,015.00
ORNAMENTAL GRASSES	208	EA	\$	18.00	\$	3,744.00
PERENNIALS	102	EA	\$	18.00	\$	1,836.00
STEEL EDGER	447	LF	\$	3.00	\$	1,341.00
ROCK MULCH	11,181	SF	\$	2.50	\$	27,952.50
SOD	4,428	SF	\$	0.70	\$	3,099.60
NATIVE SEED FOR ERIE ROW	1,797	SF	\$	0.30	\$	539.10
NATIVE SEED WITH WILDFLOWERS	7,064	SF	\$	0.30	\$	2,119.20
COMPOST	98	CY	\$	100.00	\$	9,800.00
WEED CONTROL FABRIC	11,181	SF	\$	0.45	\$	5,031.45
POST AND RAIL FENCE	320	LF	\$	8.00	\$	2,560.00
COMMON AREA LANDSCAPING SUBTOTAL						\$ 76,427.85

STREETS

CONCRETE SIDEWALK (4')	2,659	SF	\$	4.00	\$	10,636.00
8" CONCRETE DRIVE	1,218	SY	\$	49.50	\$	60,291.00
STREETS SUBTOTAL						\$ 70,927.00

PHASE 3 COMMON FACILITIES TOTAL

\$ 147,354.85

CONTINGENCY (15%)

\$ 22,103.23

TOTAL WITH CONTINGENCY

\$ 169,458.08

EXHIBIT B-1
ENGINEER'S PROJECTION OF PROBABLE COSTS
ERIE COMMONS
FEBRUARY 27, 2019

COMMON FACILITIES - PHASE 4

COMMON AREA LANDSCAPING

CANOPY TREES	25	EA	\$	375.00	\$	9,375.00
ORNAMENTAL TREES	24	EA	\$	375.00	\$	9,000.00
EVERGREEN TREES	14	EA	\$	375.00	\$	5,250.00
DECIDUOUS SHRUBS	297	EA	\$	45.00	\$	13,365.00
EVERGREEN SHRUBS	178	EA	\$	45.00	\$	8,010.00
ORNAMENTAL GRASSES	1,187	EA	\$	18.00	\$	21,366.00
PERENNIALS	355	EA	\$	18.00	\$	6,390.00
STEEL EDGER	477	LF	\$	3.00	\$	1,431.00
ROCK MULCH	17,474	SF	\$	2.50	\$	43,685.00
SOD	8,981	SF	\$	0.70	\$	6,286.70
NATIVE SEED FOR ERIE ROW	14,368	SF	\$	0.30	\$	4,310.40
NATIVE SEED WITH WILDFLOWERS	844	SF	\$	0.30	\$	253.20
COMPOST	145	CY	\$	100.00	\$	14,500.00
WEED CONTROL FABRIC	17,474	SF	\$	0.45	\$	7,863.30
POST AND RAIL FENCE	-	LF	\$	8.00	\$	-
COMMON AREA LANDSCAPING SUBTOTAL						\$ 151,085.60

STREETS

CONCRETE SIDEWALK (4')	2,714	SF	\$	4.00	\$	10,856.00
8" CONCRETE DRIVE	2,398	SY	\$	49.50	\$	118,701.00
STREETS SUBTOTAL						\$ 129,557.00

PHASE 4 COMMON FACILITIES TOTAL

\$ 280,642.60

CONTINGENCY (15%)

\$ 42,096.39

TOTAL WITH CONTINGENCY

\$ 322,738.99

EXHIBIT C-1

Public Improvement Reimbursement and Fee In Lieu Schedule

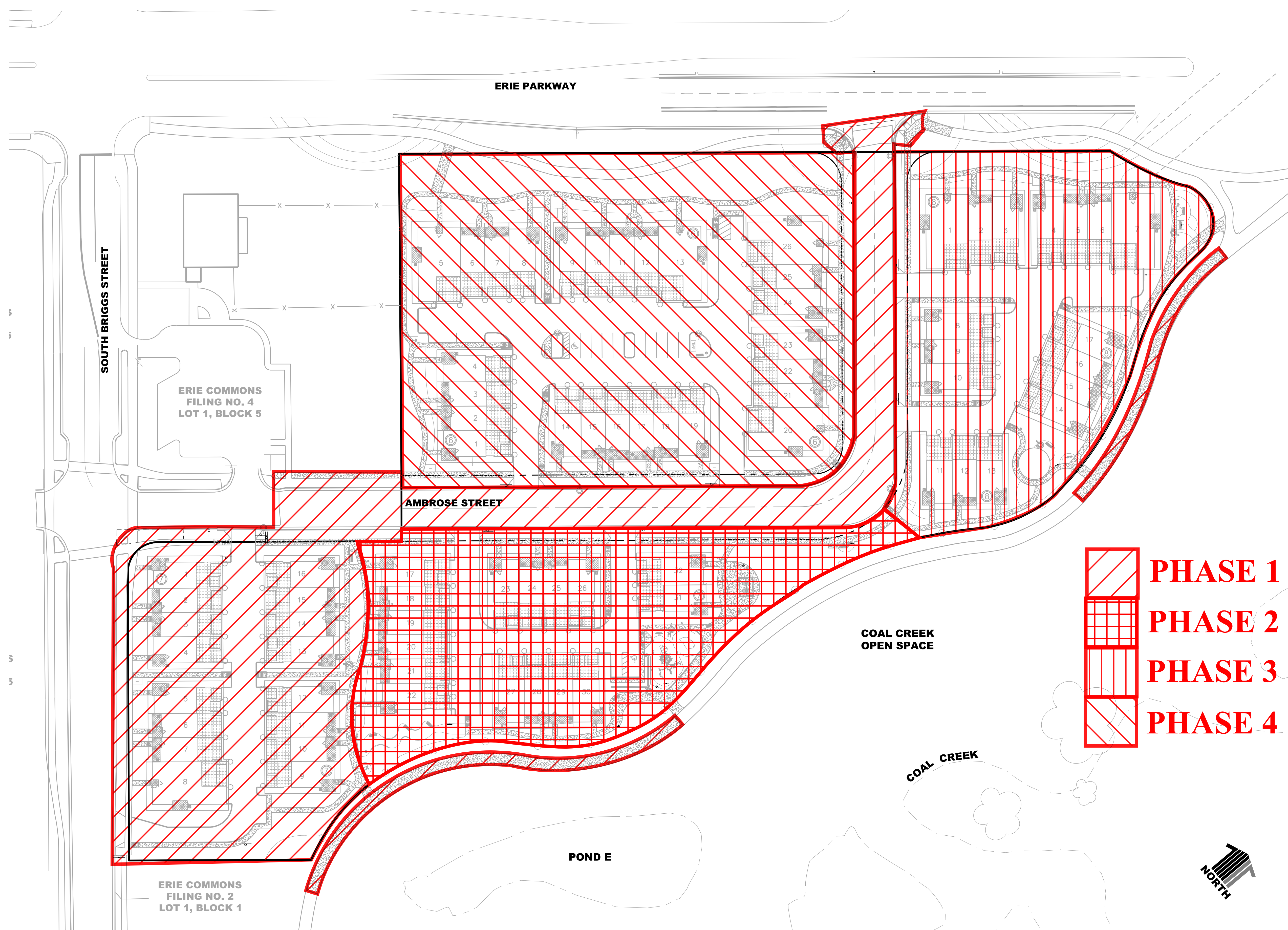
Reimbursements due Owner:

1. Owner shall be reimbursed the actual incremental cost for the oversizing of the 12 inch non-potable water line pursuant with Section XII.D of this agreement. Owner shall provide said cost to the Town for review and acceptance prior to Construction Acceptance of improvements. The Town will make payment of said amount within 60 days of either issuance of the building permit for the 38th unit or January 1st, 2020, whichever occurs latest.

Reimbursements due Erie:

1. The Town shall collect from Owner, prior to recordation of this Agreement, four thousand sixty five & 75/100 Dollars (\$4,065.75) as reimbursement for 75 lots (\$54.21 per lot) within the Erie Commons Filing 4, 3rd Amendment subdivision connecting to the Coal Creek Sanitary Sewer Interceptor line that the Town constructed.
2. The Town shall collect from Owner, prior to recordation of this Agreement, thirty thousand seven-hundred fifty & No/100 Dollars (\$30,750.00) as reimbursement for 75 lots (\$410.00 per lot) within the Erie Commons Filing 4, 3rd Amendment subdivision connecting to the North Water Reclamation Facility Interceptor line that the Town constructed.

PATH: K:\CAGE ENGINEERING\PROJECTS\CENTURY EC\CADD\CIVIL\21 CD\21SN1.DWG
PLOT BY: PEARSON, ERIC PLOT DATE: 10/7/2018 12:41 PM
XREFS: 20ANN, 21KMSN, 20TB, 10EUT, 10EPN, 20PPN, 20BASE,



PHASE 1

PHASE 2

PHASE 3

PHASE 4

KEYMAP

NORTH



811
OR
1-800-922-1987
Utility Notification
Center of Colorado

DATE	REVISION	DESCRIPTION

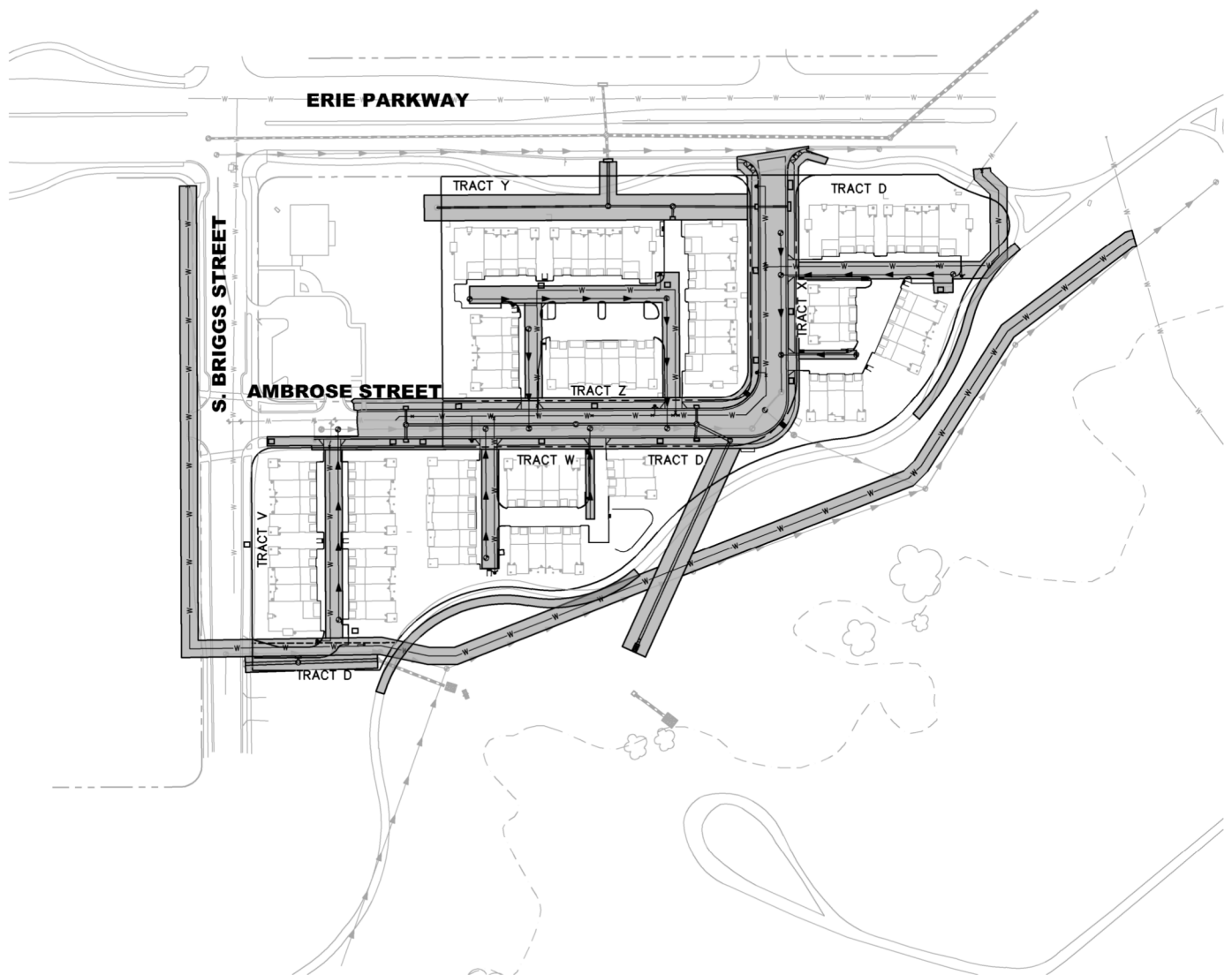
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Job Number	CENTURY EC
Prepared For	CENTURY

0	20	40	80
1 inch = 40 ft. Horizontal			
Designer	Drafter	Checked	
CAP	ETG	TAJ	

Calibre Engineering, Inc.
9090 South Ridgeline Boulevard, Suite 105
Highlands Ranch, CO 80129 (303) 730-0434
www.calibre-engineering.com
Construction Management Civil Engineering Surveying

ERIE COMMONS
FILING NO. 4 - EHIBIT D-1
COMMON FACILITIES PHASE MAP

Sheet	27 of 38
Date	OCTOBER 09, 2018




PUBLIC IMPROVEMENTS:
 SANITARY SEWER, WATER, STORM IMPROVEMENTS
 CURB, GUTTER AND SIDEWALK WITHIN AMBROSE STREET ROW



Calibre

Calibre Engineering, Inc.
 9090 South Ridgeline Boulevard, Suite 105
 Highlands Ranch, CO 80129 (303) 730-0434
www.calibre-engineering.com
 Construction Management Civil Engineering Surveying

ERIE COMMONS PHASE 1-PUBLIC IMPROVEMENTS EXHIBIT D-2

Sheet

D-2

Scale 1" = 200'

Date
 2/26/2019