

**Town of Erie
Ordinance No. 040-2024**

An Ordinance of the Town Council of the Town of Erie Approving a Purchase and Sale Agreement, a Bill of Sale, a Partial Assignment of Easements and a Transition Agreement, all for the Purchase of Streetlights and Related Easements from Public Service Company of Colorado d/b/a Xcel Energy for \$827,458.71

Whereas, pursuant to the Town Franchise Agreement with Public Service Company of Colorado d/b/a Xcel Energy ("Xcel"), some of the streetlights with the Town are currently owned and operated by Xcel;

Whereas, the Town desires to purchase all Xcel-owned streetlights within the Town and thereafter operate those street lights;

Whereas, the Franchise Agreement between the Town and Xcel authorizes the acquisition of the streetlights either through negotiation or condemnation;

Whereas, the Town and Xcel have been negotiating purchase of the streetlights by the Town since 2022;

Whereas, the negotiations have resulted in four proposed agreements: the Purchase and Sale Agreement, which details the terms of the cost to acquire the streetlights and all associated equipment (poles, conductors, photocells); the Bill of Sale, which effectuates the sale of the streetlights; the Partial Assignment of Easements, which assigns to the Town the easements associated with the streetlights; and the Transition Agreement, which addresses electrical separation and the transition of streetlights located on distribution poles from Xcel maintenance to Town maintenance; and

Whereas, the four agreements are attached to this Ordinance with confidential financial information redacted, and the unredacted versions shall remain on file with the Town Clerk.

Now Therefore be it Ordained by the Town Council of the Town of Erie, Colorado, as follows:

Section 1. The Town Council hereby approves the Purchase and Sale Agreement, the Bill of Sale, the Partial Assignment of Easements, and the Transition Agreement, all in substantially the form attached hereto, subject to approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute all of the agreements on behalf of the Town, and the Town Manager is authorized to perform all actions necessary to finalize the purchase of the streetlights and related easements from Xcel for \$827,458.91.

Section 2. 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 3. Safety. The Town Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 4. Effective Date. This Ordinance shall take effect 10 days after publication following adoption.

Introduced, Read, Passed and Ordered Published this 22nd day of October, 2024.

Justin Brooks, Mayor

Attest:

Debbie Stamp, Town Clerk