

AMENDMENT TO  
AGREEMENT REGARDING  
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION  
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR  
COAL CREEK FROM COUNTY LINE ROAD TO KENOSHA ROAD  
TOWN OF ERIE

Agreement No. 15-02.10A  
Project No. 101684

THIS AGREEMENT, dated \_\_\_\_\_, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and TOWN OF ERIE (hereinafter called "TOWN") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Coal Creek from County Line Road to Kenosha Road, Town of Erie" (Agreement No. 15-02.10) dated August 25, 2015; and

WHEREAS, PARTIES now desire to begin the design and construction of improvements for Coal Creek from Cheesman Street to Kenosha Road; and

WHEREAS, PARTIES desire to increase the level of funding by \$1,275,000 and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 15, Series of 2017); and

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

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

1. Paragraph 2 SCOPE OF PROJECT is deleted and replaced as follows:
2. SCOPE OF PROJECT
  - A. Final Design. PROJECT shall include the final design of improvements in accordance with the recommendations defined in PLAN. Specifically, the final design of facilities shall extend along Coal Creek from approximately Kenosha Road to Cheesman Street, as shown on Exhibit A (see attached).
  - B. Right-of-Way Delineation and Acquisition. Right-of-way for the improvements as set forth in the final design and an estimate of costs for acquisition shall be determined. Maps, parcel descriptions, and parcel plats shall also be prepared.
  - C. Construction. PROJECT shall include construction by DISTRICT of the drainage and flood control improvements as set forth in the final design and vegetation establishment.

2. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

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

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

- B. It is understood that PROJECT costs as defined above are not to exceed \$1,375,000 without amendment to this Agreement.

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

<u>ITEM</u>	<u>AS AMENDED</u>	<u>ORIGINAL</u>
1. Final Design	\$ 375,000	\$100,000
2. Right-of-way	-0-	-0-
3. Construction	1,000,000	-0-
4. Contingency	-0-	-0-
Grand Total	\$1,375,000	\$100,000

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

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

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	40.00%	\$ 50,000	\$ 500,000	\$ 550,000
TOWN	60.00%	\$ 50,000	\$ 775,000	\$ 825,000
TOTAL	100.00%	\$100,000	\$1,275,000	\$1,375,000

It is understood that TOWN shall fully fund all Design, Right of Way Acquisition, and Construction for all portions of PROJECT beyond DISTRICT boundary, as shown on Exhibit A. TOWN's overmatch of \$275,000 shall be allocated to the portion of PROJECT beyond DISTRICT's boundary.

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

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-

half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (TOWN - \$825,000; DISTRICT - \$550,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to TOWN of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or at TOWN request, TOWN share of remaining monies shall be transferred to another special fund held by DISTRICT.

4. All other terms and conditions of Agreement No. 15-02.10 shall remain in full force and effect.

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

URBAN DRAINAGE AND  
FLOOD CONTROL DISTRICT

By\_\_\_\_\_

Name Ken A. MacKenzie

Title Executive Director

TOWN OF ERIE

By\_\_\_\_\_

Name\_\_\_\_\_

Title\_\_\_\_\_

\_\_\_\_\_  
Checked By

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Exhibit A

