

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City and County of Broomfield, a Colorado municipal corporation and county ("Broomfield"); the Town of Erie, a municipal corporation ("Erie"); and the Southern Water Supply Project Water Activity Enterprise ("Enterprise"), a government owned business within the meaning of Colo. Const. art. X, § 20(2)(d) organized pursuant to C.R.S. § 37-45.1-101, *et seq.*, and owned by the Northern Colorado Water Conservancy District, a quasi-municipal entity and political subdivision of the State of Colorado.

### RECITALS

A. WHEREAS, Erie and Broomfield are among the Participants in the Southern Water Supply Project ("SWSP"), a project conducted by the Enterprise to construct a pipeline to convey Colorado-Big Thompson Project and Windy Gap Project water supplies from the Carter Lake outlet works to Participants' service areas ("SWSP Pipeline");

B. WHEREAS, in 1994, the SWSP Participants', including Erie and Broomfield, entered into individual, but substantially similar, allotment contracts with the Enterprise, under which each Participant was allocated capacity in the SWSP Pipeline subject to certain terms and conditions, and as amended in 2003 ("SWSP Allotment Contracts");

C. WHEREAS, paragraph 4(e)(ii) of that Allotment Contract with the Northern Colorado Water Conservancy District Acting By and Through the Southern Water Supply Project Water Activity Enterprise for Capacity in the Southern Water Supply Project Pipeline, between Erie and the Enterprise, dated January 14, 1994 ("Allotment Contract"), provides that the rights-of-way acquired in connection with the SWSP Pipeline ("Project ROW") are retained by the Enterprise; however, an entity may secure a right to use a portion of the Project ROW for purposes not related to the SWSP upon approval of Northern's Board of Directors ("Board") and reimbursement payment to the Participant(s) which paid for the portion of the Project ROW for such use;

D. WHEREAS, Erie seeks the right to use a 30 foot wide portion of the Project ROW ("Erie ROW") within which it will construct an approximately 2,600 linear foot pipeline to be used as part of Erie's municipal water supply system;

E. WHEREAS, the Erie ROW will be located within a portion of the 80 foot wide Project ROW associated with SWSP Pipeline Segment B6, as defined in the SWSP

Allotment Contracts ("Segment ROW"), the capacity of which segment of pipeline is allocated to Erie and Broomfield under the SWSP Allotment Contracts;

F. WHEREAS, if and to the extent the Enterprise has the authority to do so under the right-of-way grants or deeds for the Segment ROW, the Enterprise desires to grant to Erie use of the Segment ROW to the extent of the Erie ROW, subject to the terms and conditions of this Intergovernmental Agreement ("IGA"); and

G. WHEREAS, Erie and Broomfield desire to establish the terms on which Erie will make a reimbursement payment to Broomfield for Erie's use of the Erie ROW and the terms on which Erie and Broomfield will reimburse one another for any future use of the Segment ROW by either of them.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, Erie, Broomfield, and the Enterprise hereby agree as follows:

1. Grant of right of use. Subject to the terms and conditions of this IGA, and only if and to the extent the Enterprise has the authority to do so under the right-of-way grants or deeds for the Segment ROW, the Enterprise hereby grants, conveys, establishes, and creates, to and for the benefit of Erie and its successors, assigns, employees, officers, directors, contractors, and subcontractors, the perpetual and non-exclusive right to use the Erie ROW, which is approximately 30 feet wide and further defined as set forth in **Exhibit A** and shown on **Exhibit B**, for the purpose of access to and construction, installation, operation, maintenance, repair, replacement, and removal of a water pipeline and related infrastructure used as part of Erie's municipal water supply system, pursuant to the terms of the License Agreement attached hereto as **Exhibit C**.

2. Payment.

a. Calculation of payment amount. Paragraph 4.e.ii of the Allotment Contract authorizes the Board to approve use of the Project ROW by SWSP Participants and other users, subject to the Enterprise's obligation to ensure that such user "pay the Participants for use of the right of way in an amount equal to the greater of a) the appraised value of the right to so use the [Project ROW] or b) one-half of the actual cost of acquisition of the permanent [Project ROW] plus all carrying costs including interest at nine percent (9%) from the date of acquisition of the right of way through the date of conveyance." That payment is to be "divided among the Participants based on their contributions to the

original cost of the [Project ROW] determined on a Segment-by-Segment basis,” as those segments and cost allocations were established in the SWSP Allotment Contracts.

i.) Segment B6: The Erie ROW will be exclusively in Segment B6. Under the SWSP Allotment Contracts, Erie and Broomfield are the two Participants who contributed to the original cost of the Project ROW associated with Segment B6. Thus, Erie’s payment for use of the Segment ROW is owed to Broomfield.

b. Erie’s payment. Erie shall compensate Broomfield for use of the Segment ROW in the amount of \$75,000.00, which was determined to be the greater of a) the appraised value of the right to use the Segment ROW, and b) one half of the original cost of acquiring the original Segment ROW plus 9% interest. Such payment satisfies the requirement in paragraph 4.e.ii of the Allotment Contract as to Erie’s and the Enterprise’s obligation to make reimbursement to the Participants for Erie’s use of the Project ROW, including the Segment ROW.

3. Interest rate. For purposes of this IGA, Erie has agreed to pay, and Broomfield has agreed to accept, a reimbursement payment for the grant of the Erie ROW and use of the Segment ROW based on applying a non-compounding, annual 9% interest rate to one half of the original cost of acquiring the Segment ROW easement.

4. Future Reimbursement Rates. Nothing herein forecloses future use of the Segment ROW by Broomfield or Erie upon agreement of the parties hereto. Erie and Broomfield agree that, as between themselves, if in the future Broomfield or Erie seeks a right of use in the Segment ROW and the other party hereto is entitled to a reimbursement payment through the operation of paragraph 4.e.ii of the Allotment Contract, the payment obligation will be determined based on the pro-rata share of the original cost of acquiring the Project ROW plus 9% simple interest. Said agreement between Broomfield and Erie has been approved by all Participants in the SWSP pursuant to the Consent Agreement attached hereto as **Exhibit D**.

5. Project ROW. Erie’s exercise of the Erie ROW is subject to the rights and obligations of the Enterprise in and to the Project ROW, including the Segment ROW, and including but not limited to those rights and obligations granted to the SWSP Participants through their respective SWSP Allotment Contracts. Erie acknowledges and agrees that in order for it use the Erie ROW for purposes stated herein, it may also

be necessary for Erie to separately obtain approvals or property interests from the owners of the land on which the Erie ROW is located.

6. No modification. Nothing herein modifies the Allotment Contract or the SWSP Allotment Contracts.

7. Miscellaneous.

a. Warranty of authority. The signatory for the Enterprise warrants that the Board has duly approved the grant of the Erie ROW, and he is authorized to execute this IGA on behalf of the Enterprise and to bind the Enterprise to the grant of the Erie ROW contained in this IGA.

b. Governing law. This IGA will be governed and construed in accordance with the laws of the State of Colorado.

c. Counterparts and electronic signatures. This IGA may be executed in counterparts, each of which will be deemed to be an original, and all of which will constitute one and the same instrument. This IGA may be executed and delivered by email transmission, and counterparts executed and delivered in such a manner will be fully binding and enforceable as if an original had been executed and delivered.

d. Enterprise Liability. Any and all obligations of the Enterprise that may arise under this IGA, whether financial or otherwise, shall be payable solely from the revenues, income, rents and receipts earned by the Enterprise. Nothing herein shall be deemed to prevent the Enterprise from making any payments from any other legally available source. In no event shall the Enterprise be required to spend any money from taxes in violation of Section 20(4) of Article X of the Colorado Constitution in the performance of its obligations under this IGA or which would cause the Enterprise to lose its enterprise status as such status is defined in the Colorado Constitution. In addition, neither the Enterprise nor the Northern Colorado Water Conservancy District shall be required to expend any funds or impair any assets of the the Northern Colorado Water Conservancy District in the performance of any of the Enterprise's obligations under this IGA. The obligations of the Enterprise under this IGA do not constitute a debt or indebtedness of the Enterprise or the Northern Colorado Water Conservancy District within the meaning of any constitutional, charter, or statutory provision or limitation, and shall not be considered or held to be a general obligation of the Enterprise or the

Northern Colorado Water Conservancy District. In addition, nothing in this IGA shall constitute a waiver, in whole or in part, of the governmental immunities, rights, or protections provided to the Enterprise by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 to -120, or any successor or similar statutes of the State of Colorado..

8. Recording. Erie shall record the fully executed agreement with the Clerk of the County of Boulder.

9. Binding effect. This IGA, with the burdens and benefits it imposes, is binding upon the parties and their representatives, successors, and assigns.

THE CITY AND COUNTY OF BROOMFIELD,  
a Colorado municipal corporation and county

\_\_\_\_\_  
Mayor  
One Descombes Drive  
Broomfield, CO 80020

ATTEST:

\_\_\_\_\_  
City & County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City & County Attorney

TOWN OF ERIE

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

SOUTHERN WATER SUPPLY PROJECT ENTERPRISE

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

ATTEST:

\_\_\_\_\_

**EXHIBIT A**

**REX RANCH FILING NO. 1 & 2  
WATER EASEMENT 06**

**PROPERTY DESCRIPTION**

A PARCEL OF LAND BEING A PORTION OF TRACT E, REX RANCH SUBDIVISION FILING NO. 1 RECORDED UNDER RECEPTION NO. 03626300 AND A PORTION OF TRACT C, REX RANCH SUBDIVISION FILING NO. 2 RECORDED UNDER RECEPTION NO. 03767268 IN THE RECORDS OF THE BOULDER COUNTY CLERK AND RECORDER, LOCATED IN THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER BY A 10' WITNESS CORNER BEING A 2-1/2" ALUMINUM CAP STAMPED "LS 29414" AND AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER BY A 70' WITNESS CORNER BEING A 3-1/4" ALUMINUM CAP STAMPED "PLS 28286", BEARING S88°46'04"W PER THE PLAT OF REX RANCH SUBDIVISION FILING NO. 1.

BEGINNING AT THE SOUTHEASTERLY CORNER OF TRACT E, REX RANCH SUBDIVISION FILING NO. 1 RECORDED UNDER RECEPTION NO. 03626300 IN THE RECORDS OF THE BOULDER COUNTY CLERK AND RECORDER;

THENCE ON THE SOUTHERLY LINE OF SAID TRACT E AND THE SOUTHERLY LINE OF TRACT C, REX RANCH SUBDIVISION FILING NO. 2 RECORDED UNDER RECEPTION NO. 03767268, S88°46'04"W A DISTANCE OF 2,556.07 FEET, TO SOUTHWESTERLY CORNER OF SAID TRACT C;

THENCE ON THE WESTERLY LINE OF SAID TRACT C, N00°21'53"E A DISTANCE OF 30.00 FEET;

THENCE DEPARTING SAID WESTERLY LINE, ON A LINE BEING 30.00 FEET NORTHERLY OF AND PARALLEL WITH SAID SOUTHERLY LINE, N88°46'04"E A DISTANCE OF 1,973.69 FEET;

THENCE THE FOLLOWING THREE (3) COURSES:

1. N01°13'56"W A DISTANCE OF 15.00 FEET;
2. N88°46'04"E A DISTANCE OF 160.00 FEET;
3. S01°13'56"E A DISTANCE OF 15.00 FEET;

THENCE ON A LINE BEING 30.00 FEET NORTHERLY OF AND PARALLEL WITH SAID SOUTHERLY LINE, N88°46'04"E A DISTANCE OF 422.40 FEET, TO A POINT ON THE EASTERLY LINE OF SAID TRACT E;

THENCE ON SAID EASTERLY LINE, S00°19'39"E A DISTANCE OF 30.00 FEET, TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 79,082 SQUARE FEET OR 1.8155 ACRES.

**PROPERTY DESCRIPTION STATEMENT**

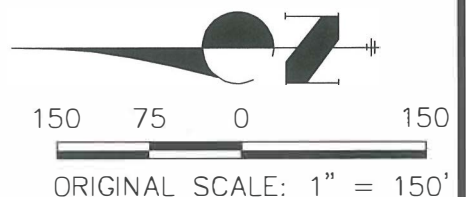
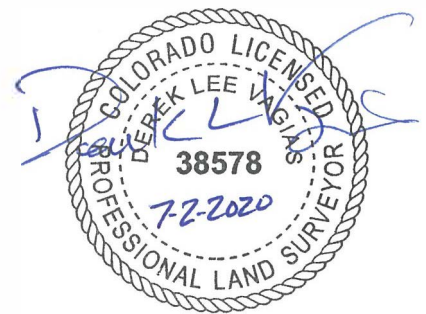
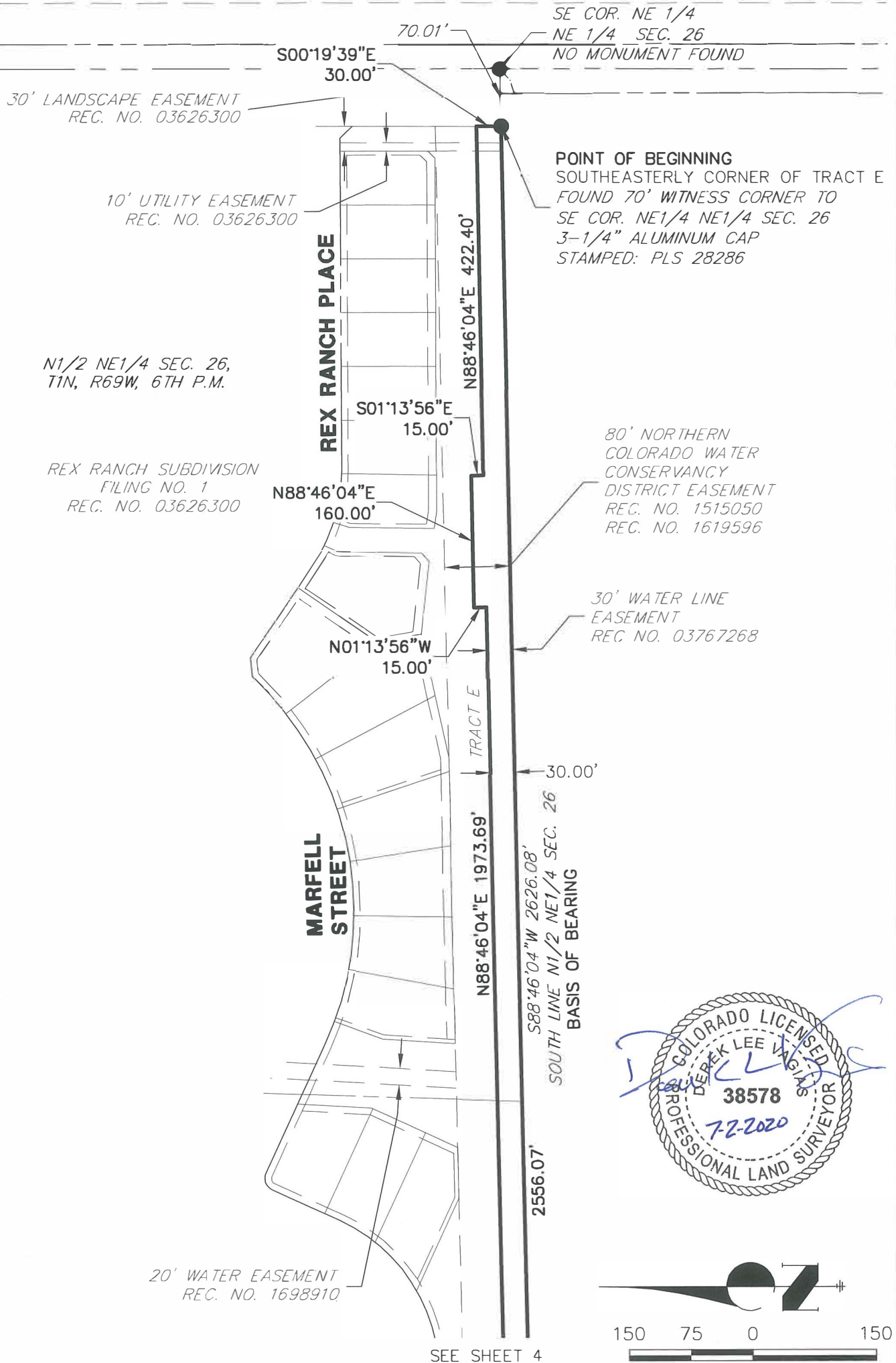
I, DEREK LEE VAGIAS, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

DEREK LEE VAGIAS, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 38578  
FOR AND ON BEHALF OF JR ENGINEERING, LLC





# EXHIBIT B



NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED PROPERTY DESCRIPTION.

WATER EASEMENT 06  
 REX RANCH FILING NO. 1  
 PROJECT NO.: 15708.08  
 DATE: 07/02/20

SHEET: 3 OF 4

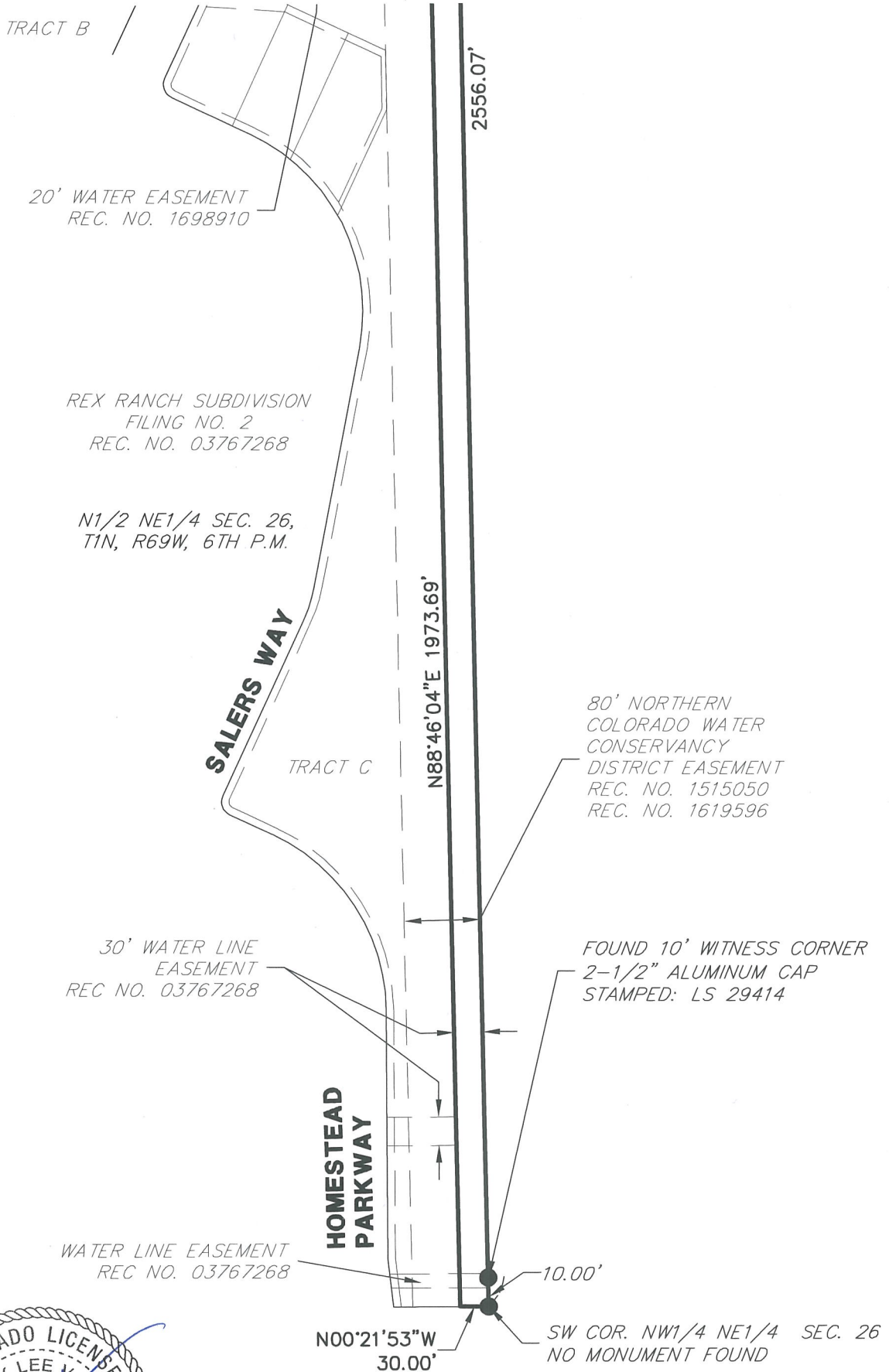


**J-R ENGINEERING**  
 A Westrian Company

Centennial 303-748-9393 • Colorado Springs 719-593-2593  
 Fort Collins 970-491-9888 • [www.jrengineering.com](http://www.jrengineering.com)

# EXHIBIT

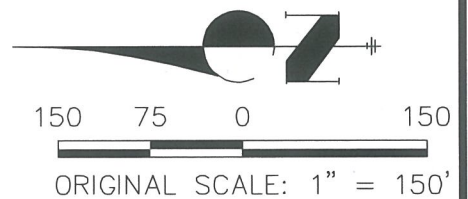
SEE SHEET 3



NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED PROPERTY DESCRIPTION.

WATER EASEMENT 06  
REX RANCH FILING NO. 1  
PROJECT NO.: 15708.08  
DATE: 07/02/20

SHEET: 4 OF 4



**J-R ENGINEERING**

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Fort Collins 970-491-9888 • [www.jrengineering.com](http://www.jrengineering.com)

## EXHIBIT C

### CONSENT AGREEMENT

This Consent Agreement ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Town of Berthoud, the City of Broomfield, the Town of Erie, the City of Fort Lupton, the City of Fort Morgan, the Town of Hudson, Little Thompson Water District, Central Weld County Water District, the City of Longmont, the City of Louisville, Morgan County Quality Water District, Platte River Power Authority, Superior Metropolitan District No. 1, and Tri-State Generation and Transmission Association, Inc. (collectively, "SWSP Participants"); and the Southern Water Supply Project Water Activity Enterprise ("SWSP Enterprise"), a government-owned business within the meaning of Article X, Section 20(2)(d) of the Colorado Constitution, that is organized pursuant to C.R.S. §§ 37-45.1-101, et seq. and owned by the Northern Colorado Water Conservancy District (a quasi-municipal entity and political subdivision of the State of Colorado, hereinafter described as "Northern"), and whose address is 220 Water Ave., Berthoud, Colorado, 80513.

### RECITALS

A. WHEREAS, Erie and Broomfield are among the Participants in the Southern Water Supply Project ("SWSP"), a project conducted by the Enterprise to construct a pipeline to convey Colorado-Big Thompson Project and Windy Gap Project water supplies from the Carter Lake outlet works to Participants' service areas ("SWSP Pipeline");

B. WHEREAS, in 1994, the SWSP Participants entered into individual, but substantially similar, allotment contracts with the Enterprise, under which each Participant was allocated capacity in the SWSP Pipeline subject to certain terms and conditions, and as amended in 2003 ("SWSP Allotment Contracts");

C. WHEREAS, paragraph 4(e)(ii) of the SWSP Allotment Contracts provides that the rights-of-way acquired in connection with the SWSP Pipeline ("Project ROW") are retained by the Enterprise; however, an entity may secure a right to use a portion of the Project ROW for purposes not related to the SWSP upon approval of Northern's Board of Directors and reimbursement payment to the Participant(s) which paid for the portion of the Project ROW for such use;

D. WHEREAS, paragraph 4(e)(ii) of the SWSP Allotment Contracts provide that an entity seeking a right to use a portion of the Project ROW for purposes not related to the SWSP shall pay either a) the appraised value of the right to so use the Pipeline right-of-way at that time, or b) one-half of the actual cost of acquisition of the permanent Pipeline right-of-way plus all carrying costs including interest at nine percent (9%) from the date of acquisition of the right-of-way through the date of conveyance;

E. WHEREAS, paragraph 4(e)(ii) of the SWSP Allotment Contracts does not specify whether the nine percent interest described therein is to be calculated based on a compounding annual 9% interest rate, or a simple non-compounding annual 9% interest rate;

F. WHEREAS, Erie currently seeks the right to use a portion of the Project ROW ("Erie ROW") within which it will construct a pipeline to be used as part of Erie's municipal water supply system;

G. WHEREAS, the Erie ROW will be located within a portion of the Project ROW associated with SWSP Pipeline Segment B6 ("Segment B6"), as defined in the SWSP Allotment Contracts, the capacity of which segment of pipeline is allocated only to Erie and Broomfield under the SWSP Allotment Contracts

H. WHEREAS Erie and Broomfield desire to calculate any reimbursement payments for the grant of right-of-ways to one another within Segment B6 ("Segment B6 ROWs") based on applying a simple non-compounding, annual 9% interest rate to one half of the original cost of acquiring the Segment B6 ROW, rather than a compounding annual 9% interest rate.

I. WHEREAS, Erie, Broomfield, and the Enterprise desire to obtain the SWSP Participants' consent to those terms for any conveyances of Segment B6 ROWs.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, the SWSP Participants and the Enterprise hereby agree as follows:

1. Consent to Use of Simple, Non-Compounding Annual Interest rate.  
The SWSP Participants and the Enterprise hereby consent to Erie and Broomfield

applying and interpreting the 9% interest rate described in paragraph 4(e)(ii) of the SWSP Allotment Contracts as a simple non-compounding, annual 9% interest rate rather than a compounding annual 9% interest rate, for any conveyances of Segment B6 ROWs.

2. No modification. Nothing herein modifies the SWSP Allotment Contracts.

3. Consent Limited. The consent granted under this Agreement shall be strictly limited to the terms described herein, and shall not be deemed as consent to any segments of the SWSP Pipeline except Segment B6.

4. Miscellaneous.

a. Warranty of authority. The signatories hereto warrant that they are authorized to execute this agreement on behalf of their respective SWSP Participant entity, and to bind said entity to the terms agreed upon in this agreement.

b. Governing law. This Agreement will be governed and construed in accordance with the laws of the State of Colorado.

c. Counterparts and electronic signatures. This Agreement may be executed in counterparts, each of which will be deemed to be an original, and all of which will constitute one and the same instrument. This Agreement may be executed and delivered by email transmission, and counterparts executed and delivered in such a manner will be fully binding and enforceable as if an original had been executed and delivered.

5. Binding effect. This Agreement, with the burdens and benefits it imposes, is binding upon the parties and their representatives, successors, and assigns.

The authorized representatives of the SWSP Enterprise and Participants have executed this Agreement as of the day and year first set forth above.

SOUTHERN WATER SUPPLY PROJECT WATER ACTIVITY ENTERPRISE

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

Name: Bradley D. Wind

Title: General Manager

TOWN OF BERTHOUD

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE CITY AND COUNTY OF  
BROOMFIELD,  
a Colorado municipal corporation and  
county

---

Mayor  
One Descombes Drive  
Broomfield, CO 80020

ATTEST:

---

City & County Clerk

APPROVED AS TO FORM:

---

City & County Attorney



CENTRAL WELD COUNTY WATER DISTRICT

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

Name: Stan Linker

Title: District Manager

THE TOWN OF ERIE

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

Name: Jennifer Carroll

Title: Mayor

CITY OF FORT LUPTON

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

Name: Zo Stieber

Title: Mayor

CITY OF FORT MORGAN

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

Name: Ron Shaver

Title: Mayor

TOWN OF HUDSON

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

LITTLE THOMPSON WATER DISTRICT

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

Name: William R. Szmyd

Title: Board President

THE CITY OF LONGMONT,

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

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form by:

\_\_\_\_\_  
Atasi Bhavsar  
Assistant City Attorney

\_\_\_\_\_  
Date

Approved as to content:

\_\_\_\_\_  
Dale Rademacher  
Deputy City Manager

\_\_\_\_\_  
Date

Proof Read:

\_\_\_\_\_  
C.A. #

CITY OF LOUISVILLE

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

Name: Heather Balser

Title: City Manager



MORGAN COUNTY QUALITY WATER DISTRICT

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

Name: Kip Barthlama

Title: Board President

PLATTE RIVER POWER AUTHORITY

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SUPERIOR METROPOLITAN DISTRICT NO. 1

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

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

Name: Duane Highley

Title: Chief Executive Officer

**EXHIBIT D**  
**LICENSE AGREEMENT**

THIS LICENSE ("License"), executed this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Southern Water Supply Project Water Activity Enterprise, a government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq. and owned by the Northern Colorado Water Conservancy District, whose address is 220 Water Avenue, Berthoud, Colorado 80513, hereinafter called "Licensor," is granted to the Town of Erie , a municipal corporation, acting by and through its Water Activity Enterprise, a government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq., whose address is 645 Holbrook, PO Box 750, Erie, CO 80516, hereinafter called "Licensee."

**RECITALS**

A. Licensor is the owner of, or holds certain easements on, the real property more particularly described on Exhibit A attached hereto and made a part hereof by this reference (the "Property").

B. The Licensee desires to construct a water transmission pipeline and related appurtenances ("Licensed Facility") on, over, across and under portions of the Property and desires to obtain permission therefor from the Licensor.

NOW, THEREFORE, for and in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**AGREEMENT**

1. Licensor hereby grants to Licensee, its successors and permitted assigns, with respect to such title and interest as Licensor may have in the Property, and upon the terms and conditions hereinafter stated, the permanent irrevocable license, permission and right to survey, locate, install, construct, use, operate, maintain, inspect, repair, alter, remove and replace the Licensed Facility on, over, across and under the Property. Such installation and construction shall be located as shown on Exhibit B attached hereto and made a part hereof by this reference.

2. Licensor intends to use the Property for all purposes in connection with present and future water pipelines, which rights Licensor hereby expressly reserves.

3. Licensor warrants that it has not granted to others the use of the Property to construct a water transmission pipeline longitudinal to the water pipeline of Licensor located on the Property. Licensor reserves the right to grant to others the use of the Property for any purposes whatsoever, provided that the same shall not unreasonably interfere with the Licensed Facility. Licensor, its successors and assigns shall maintain a minimum 10 foot horizontal separation (edge to edge distance) between any future pipelines and the Licensed Facility.

4. Licensor and Licensee shall not do or permit to be done any blasting above, underneath or near the facilities of Licensor or the Licensed Facility.

5. Licensee shall not begin construction upon and along the Property until Licensee first provides Licenser with plans and specifications for the Licensed Facility and until such plans and specifications have been approved by Licenser to ensure that any construction will not damage or materially impair the facilities of Licenser, which approval shall not be unreasonably withheld. The Licensed Facility shall be substantially constructed in accordance with such approved plans and specifications. Licensee shall give reasonable notice to Licenser prior to the commencement of construction on the Property. Licenser shall have the right to inspect all facilities constructed or installed pursuant to this License. Any reasonable instructions of the Licenser's representative relating to the safety of Licenser's facilities will be followed by the Licensee, its agents, contractors and employees. Any damage done to Licenser's facilities, monumented survey points or other improvements during the above construction shall be immediately repaired at the expense of Licensee, and, insofar as practicable, all portions of the Property which are disturbed by the construction of the Licensed Facilities shall be restored by the Licensee to its condition prior to the construction of the Licensed Facilities and revegetated. In the event of resettling, Licensee shall restore the surface of the Property by grading and compacting any irregularities left after construction.

6. The provisions of paragraph 5 shall also apply to any other work involving the construction, maintenance, reconstruction or relocation of the Licensed Facility on the Property. If practicable, Licensee shall give reasonable notice to Licenser prior to commencement of such activities.

7. Should Licensee or its employees, contractors or agents discover evidence of historical, archaeological or paleontological sites on the Property during construction of the Licensed Facility, all construction on the Property shall be immediately suspended until all applicable rules, regulations, permits and laws have been complied with. Licensee shall immediately advise Licenser of the discovery.

8. Licensee shall operate, maintain and repair the Licensed Facility so that the Licensed Facility does not adversely affect the operation of the Licenser's facilities. If the Licensed Facility does adversely affect the Licenser's facilities, Licenser may give notice requiring immediate repair or maintenance of the Licensed Facility to eliminate such adverse effect. If Licensee should fail to take such action requested by Licenser, Licenser may take such action at the expense of the Licensee.

9. Licensee has been fully advised by Licenser that the water pipelines of Licenser located on the Property are subject to cathodic protection. Licenser shall not be liable for stray current or interfering signals induced in the Licensed Facility as a result of the operation of Licenser's cathodic protection system.

10. Licensee shall not cause nor permit to be caused by any of its contractors, agents or employees, any hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), pollutants or contaminants, as defined by CERCLA, or hazardous wastes, as defined by the Resource Conservation and Recovery Act ("RCRA"), including, but not limited to asbestos, polychlorinated biphenyls ("PCB's") and/or urea formaldehyde, or any pollutants or toxic pollutants as defined by the Clean Water Act, and any amendments thereto, to be dumped, spilled, released, permanently stored, or deposited on, over, or beneath the Property. Any hazardous, toxic or flammable substances used by the Licensee or its agents, representatives, or independent contractors in the construction, operation, maintenance, repair or replacement of the Licensed Facility shall be utilized in a lawful manner and in compliance with all federal, state and local requirements relating to protection of health or the environment. Upon completion of such activities, any such hazardous, toxic or flammable substances shall be removed by the Licensee.

11. Each party assumes responsibility for the actions and/or omissions of its agents and its employees in the performance or failure to perform under this Agreement. By agreeing to this provision,

neither party waives nor intends to waive the limitations on liability which are provided to each party under the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.

12. Licensor shall use care not to damage the Licensed Facility in the maintenance, relocation, construction or reconstruction of its facilities located on the Property (the "Licensor's Activities") and, if practicable, Licensor shall give reasonable notice to Licensee prior to the commencement of Licensor's Activities on the Property. Any damage done to the Licensed Facility, monumented survey points or other improvements during the Licensor's Activities shall be immediately repaired at the expense of Licensor, and all portions of the Property which are disturbed by the Licensor's Activities shall be restored by the Licensor to its condition prior to the Licensor's Activities and revegetated. In the event of resettling, Licensor shall restore the surface of the Property by grading and compacting any irregularities left after the Licensor's Activities.

13. Licensee shall install the Licensed Facility a maximum of 10 feet on center inside the Southern edge of the Easement. Licensor, its successors and assigns shall maintain a minimum 10 foot horizontal separation (edge to edge distance) between any future Licensor pipelines and the Licensed Facility. Within 30 days after the completion of installation of the Licensed Facility, the Licensee shall install, and shall thereafter maintain, visible markers of the location of the Licensed Facility.

14. Upon the abandonment of the use of the Property by Licensee, the License herein granted shall terminate. Upon termination, Licensee shall remove or abandon the Licensed Facility in the Property as may be required by the easement acquired by the Licensee from the landowners and restore the Property to its condition prior to the abandonment. If Licensee should fail to remove or abandon the Licensed Facility as may be required by the easement acquired by the Licensee from the landowners and restore the Property, Licensor may remove or abandon the same as may be required by the easement acquired by the Licensee from the landowners and restore the Property at the expense of the Licensee.

15. Licensee shall maintain insurance or self-insurance complying with the Colorado Governmental Immunity Act and shall require its contractors to purchase and maintain, for the full period of any construction contract, including any warranty period, at the contractor's sole expense, commercial general liability insurance covering personal injury, bodily injury and property damage; Explosion & Collapse; Underground Hazard; Products/Completed Operations; Contractual Liability; Broad Form Property Damage; and City's & Contractor's Protective. The limits of the contractor's insurance shall be at least \$2,000,000 per occurrence. All policies shall be of the occurrence form. The Licensee shall require that its contractor name the Licensor as additional insured under said policies.

16. This License shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

17. Licensee shall bear the sole obligation of obtaining from the fee title owner of the Property or other owner of a proprietary interest in the Property, such authority or rights as the Licensee may need in addition to the rights provided in this License for the Licensed Facility.

18. This License shall not be assigned by the Licensee without the prior written approval of the Licensor, which shall not be unreasonably withheld.

19. Additional Provisions:

- A. In accordance with paragraph 4.e.ii of the Allotment Contract for Capacity in the Southern Water Supply Project Pipeline between Licensor and Licensee dated January 4, 1994, Licensee shall pay Licensor \$\_\_\_\_\_ upon execution of this License by Licensor for use of the Property.
20. No representations, warranties, or certifications express or implied shall exist as between the parties, except as specifically stated in this Agreement.
21. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party of the source of the language in question.
22. None of the terms or conditions in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the Licensor or the Licensee receiving services or benefits under this Agreement shall be only an incidental beneficiary.
23. This Agreement is an integration of the entire understanding of the parties with respect to the matters stated herein. The parties shall only amend this Agreement in writing with the proper official signatures attached hereto.
24. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.
25. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.



**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

NORTHERN COLORADO WATER CONSERVANCY DISTRICT, ACTING BY AND THROUGH ITS  
SOUTHERN WATER SUPPLY PROJECT WATER ACTIVITY ENTERPRISE:

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

Title: \_\_\_\_\_

STATE OF                    )  
                                  ) SS  
COUNTY OF                )

The foregoing instrument was acknowledged before this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by  
\_\_\_\_\_, as \_\_\_\_\_ of the Northern Colorado Water Conservancy  
District, Acting By And Through Its Southern Water Supply Project Water Activity Enterprise.

Witness my hand and official seal.

My commission expires:

\_\_\_\_\_

Seal

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

THE TOWN OF ERIE, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE

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

Title: \_\_\_\_\_

STATE OF                    )  
                                  ) SS  
COUNTY OF                )

The foregoing instrument was acknowledged before this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by.

Witness my hand and official seal.

My commission expires:

\_\_\_\_\_

Seal

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