



Legislation Details (With Text)

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**Type:** Consent Agenda      **Status:** Agenda Ready

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**On agenda:** 11/13/2018      **Final action:**

**Title:** A Resolution Of The Board Of Trustees Of The Town Of Erie Approving The Fourth Amendment To Fifth Interim Agreement Between The Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firing Project Water Activity Enterprise, And The Town Of Erie Erie Water Activity Enterprise For The Windy Gap Firing Project

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Resolution, 2. Fourth Amendment to Fifth Interim Agreement

Date	Ver.	Action By	Action	Result
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**SUBJECT: Consent Agenda**

A Resolution Of The Board Of Trustees Of The Town Of Erie Approving The Fourth Amendment To Fifth Interim Agreement Between The Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firing Project Water Activity Enterprise, And The Town Of Erie Erie Water Activity Enterprise For The Windy Gap Firing Project

**DEPARTMENT:** Public Works

**PRESENTER:** Todd Fessenden, Director of Public Works

**FISCAL INFORMATION:**

Cost as Recommended: \$666,667.00  
Balance Available: \$666,667.00  
Budget Line Item Number: 500.70.110.605000.100005  
New Appropriation Required: No

**STAFF RECOMMENDATION:**

Approve resolution authorizing the Mayor or Town Administrator to execute the referenced Amendment and authorizing Staff to expend said funds.

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

The Board of Trustees previously approved agreements with the Municipal Subdistrict on July 23, 2002, February 11, 2003, August 10, 2004, January 24, 2006, December 11, 2007, June 9, 2009, June 22, 2010, January 10, 2012, August 28, 2012, March 25, 2014, October 28, 2014, January 12, 2016, August 10, 2017, and January 23, 2018 to participate in the Windy Gap Firing Project (WGFP). The Town of Erie owns 20 units of Windy Gap water, 6 of which it acquired in 2017.

Windy Gap water is desirable for the Town of Erie because the water is fully consumable (i.e., available for total consumptive use, augmentation, reuse, sale of effluent, etc.) and because it is deliverable through the existing Northern Colorado Water Conservancy District (NCWCD) Southern Water Supply Pipeline Project and

the Town of Erie's pipeline. The WGFP has always been contemplated as a component of the Windy Gap Project, and there are 13 participants in the WGFP. The WGFP is necessary in order to provide additional storage to firm the annual yield of the Windy Gap water rights.

The first, second, third, and fourth phases of the WGFP are complete, and the fifth phase of the WGFP continues. The work completed to date includes studies to evaluate potential reservoir sites, engineering and environmental studies, alternatives analysis, completion of the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS), issuance of a 1041 Permit from Grand County, a new Carriage Agreement with the US Bureau of Reclamation (BUREC) and the issuance of a Record of Decision by BUREC. The Chimney Hollow Reservoir site for the WGFP was acquired in 2004 for approximately \$4,000,000. In 2019, work on the fifth phase of the WGFP will consist of completion of the engineering design, continuation of the pending Water Court proceeding, completion of environmental studies for the

Connectivity Channel at the original Windy Gap Reservoir, implementation of required mitigation and enhancement measures, construction preparation, financing, and remaining environmental and permitting tasks, such as the issuance of a State Engineer dam safety permit.

A lawsuit was filed by several environmental groups against BUREC and the U.S. Army Corps of Engineers (COE) regarding the environmental permitting for the WGFP. NCWCD, the Municipal Subdistrict and the Participants are optimistic that BUREC and COE will prevail, and it is imperative that the ongoing work continue while the lawsuit is pending.

Erie's pro rata share of the continuation of work will total \$666,667 in 2019, in the absence of any change orders that may arise during the year. The WGFP is permitted for 90,000 acre feet, and Erie's participation level is 6,000 acre-feet, which is sufficient to firm up its 20 Windy Gap Units and which storage amount Erie has subscribed to since the inception of the WGFP.

Staff recommends that the Board of Trustees authorize the Fourth Amendment to Fifth Interim Agreement with the Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firming Project Water Activity Enterprise, for participation in the Windy Gap Firming Project, which commits the Town of Erie, acting by and through its Erie Water Activity Enterprise, to contribute a total of \$666,667.00 for continued participation in Phase Five of the Windy Gap Firming Project in 2019.

**Board Goal:** This serves the Board's goal for Infrastructure - Fund and provides essential infrastructure that corresponds with the planned rate of growth.

**ATTACHMENTS:**

- a. Resolution
- b. Fourth Amendment to Fifth Interim Agreement