



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 2/13/2018

File #: 18-063, Version: 1

SUBJECT: CONSENT AGENDA

A Resolution Approving The Third Amendment To The Fifth Interim Agreement Between Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firming Project And The Town Of Erie For Participation In The Windy Gap Firming Project; And Authorizing The Payment Of \$600,000 As The Town's Pro Rata Share Of The Project Cost; Authorizing And Directing The Appropriate Town Officers To Sign Said Agreement; And Setting Forth Details In Relation Thereto.

DEPARTMENT: Public Works

PRESENTER: Todd Fessenden, Director of Public Works

FISCAL INFORMATION:

Cost as Recommended: \$600,000.00
Balance Available: \$1,335,300
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, and August 10, 2017 to participate in the Windy Gap Firming 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 will continue in 2018. 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. In 2018, work on the fifth phase of the WGFP will consist of remaining environmental and permitting tasks, detailed engineering design, including transitioning from intermediate to final design, continuation of the pending Water Court proceeding, environmental studies for the Connectivity Channel at the original Windy Gap Reservoir, implementation of required mitigation and enhancement measures, and construction preparation. The Chimney Hollow Reservoir site for the WGFP was acquired in 2004 for approximately \$4,000,000.

A lawsuit was recently 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 \$600,000 in 2018, 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 Third 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 \$600,000.00 for continued participation in Phase Five of the Windy Gap Firming Project in 2018.

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. Third Amendment to Fifth Interim Agreement