

**AMENDMENT AND PARTIAL TERMINATION OF IMPROVEMENTS
ACQUISITION, WATER SYSTEM AND OPERATIONS AGREEMENT; OF
AGREEMENT TO PROCEED; AND OF COMMON INTEREST
AND CONFIDENTIALITY AGREEMENT**

This Amendment and Partial Termination of Improvements Acquisition, Water System and Operations Agreement; of Agreement to Proceed; and of Common Interest and Confidentiality Agreement ("**Amendment**") is made and entered into this ____ day of _____, 2026, by and among the Town of Erie, a municipal corporation of the State of Colorado ("**Erie**"), the Shores on Plum Creek Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado ("**Metro District**"), KOKALOA, LLC, a Colorado limited liability company, its predecessors, affiliates, subsidiaries, successors and assigns, (collectively referred to hereinafter as the "**Developer**"), 35 Acre, LLC, a Colorado limited liability company, its affiliates, successors, agents and assigns ("**35 Acre**") and 833, LLC, a Colorado limited liability company, its affiliates, successors, agents and assigns ("**833**") (each a "**Party**" and collectively the "**Parties**"). This Amendment is effective as of the date of mutual execution by the Parties.

RECITALS

WHEREAS, on September 25, 2020, the Parties entered into that Improvements Acquisition, Water System and Operations Agreement ("**Agreement**"), as amended in that First Amendment dated March 9, 2021, that Second Amendment dated February 11, 2022, and that Third Amendment dated March 17, 2022; and

WHEREAS, on September 25, 2020, the Parties entered into that Improvements Acquisition, Water System and Operations Agreement ("**Agreement**"), as amended in that First Amendment dated March 9, 2021, that Second Amendment dated February 11, 2022, and that Third Amendment dated March 17, 2022and

WHEREAS, in July 2023 the Parties entered into that Common Interest and Confidentiality Agreement ("**Confidentiality Agreement**"); and

WHEREAS, Paragraph C.4 of the Agreement provided that the Agreement may be amended by the mutual written agreement of the Parties; and

WHEREAS, Erie has determined that certain aspects of the Project are not feasible for the purposes described in the Agreement and the Agreement to Proceed, and the Parties therefore desire to terminate portions of the Agreement and Agreement to Proceed, as provided herein; and

WHEREAS, Paragraph 16 of the Confidentiality Agreement provides that the terms of said agreement will remain in effect until the date on which the Parties mutually agree to terminate it.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Meaning of Terms. All terms used in this Amendment have the same meaning as in the Agreement to Proceed and/or the Confidentiality Agreement, as applicable.
2. Agreement.
 - 2.1. Partial Termination of Agreement. The following portions of the Agreement are hereby terminated:
 - 2.1.1. Section A, including all subsections therein except subsection 1.8 and subsection 10.2.8.
 - 2.2. Portions of Agreement Not Terminated. The following portions of the Agreement are not terminated herein and shall remain in full force and effect:
 - 2.2.1. Sections A.1.8, A.10.2.8, B.1, B.2, and B.3 of the Agreement, as modified by and subject to the Agreement to Proceed.
 - 2.2.2. Section C, including all subsections therein.
3. Agreement to Proceed.
 - 3.1. Partial Termination of Agreement to Proceed. The following portions of the Agreement to Proceed are hereby terminated:
 - 3.1.1. Sections 3, 4, 5, 6, 7, 8, and 9, including all subsections therein.
 - 3.1.2.
 - 3.2. Portions of Agreement to Proceed Not Terminated. Sections 10.1 and 10.2 of the Agreement to Proceed are not terminated herein and remain in full force and effect.
4. Confidentiality Agreement.
 - 4.1. The Confidentiality Agreement is hereby terminated.
 - 4.2. The Parties remain bound by their obligations under the Confidentiality Agreement with respect to Common Interest Information they exchanged while the Confidentiality Agreement was in effect.
5. Additional Terms and Conditions.
 - 5.1. Payment of Costs and Fees. The Parties have reached a compromise with respect to the obligations in the Agreement to Proceed regarding reimbursement to Erie of all

legal and engineering fees incurred in relation to the Adjudication(s), Permit(s), and Ditch Company Approvals, and reimbursement to Erie of the cost of designing the Raw Water Facilities. Upon execution of this Amendment, 35 Acre, Developer, and Metro District shall be jointly and severally responsible for immediate payment to Erie of three hundred and twenty-two thousand dollars (\$322,000.00), such amount representing approximately one-half of outstanding costs and fees incurred to date in relation to the Adjudication(s), Permit(s), and Ditch Company Approvals. Upon payment to Erie of said \$322,000.00 to Erie, 35 Acre and its associated entities shall have no further obligation to Erie for payment of Erie's legal or engineering consulting fees under the Agreement and/or the Agreement to Proceed.

- 5.2. Erie shall deliver to 35 Acre, at no charge to any other Party and within ten business days of the date on which this Amendment is executed, all work product prepared by DiNatale Water Consultants, LRE Water, and Kennedy Jenks in association with the Agreement and the Agreement to Proceed.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date set forth above.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

**SHORES ON PLUM CREEK
METROPOLITAN DISTRICT NO. 1**

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
County of _____)

The foregoing document was subscribed, sworn to and acknowledged before me this _____ day of _____, 2026, by _____ as _____ of Shores on Plum Creek Metropolitan District No. 1.

Notary Public

My Commission Expires:

35 ACRE LLC

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
County of _____)

The foregoing document was subscribed, sworn to and acknowledged before me this _____ day of _____, 2026, by _____ as _____ of 35 Acre, LLC.

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Notary Public

My Commission Expires:

KOKALOA, LLC,
A Colorado limited liability company

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
County of _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me
this ____ day of _____, 2026, by _____ as
_____ of KOKALOA, LLC.

My commission expires:

(Seal)

Notary Public

833, LLC,

A Colorado limited liability company

By: _____

Name: _____

Title: _____

State of Colorado)
) ss.
County of _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me
this ____ day of _____, 2026, by _____ as
_____ of 833, LLC.

My commission expires:

(Seal)

Notary Public