

**Intergovernmental Agreement Between Boulder County
and the Town of Erie Re: Rehabilitation of Prince Lake No. 1**

This Intergovernmental Agreement related to rehabilitation of the Prince Lake No. 1 Dam ("Agreement") is entered into this 11th day of June, 2024, by and between the County of Boulder, a body corporate and politic of the State of Colorado (the "County"), and the Town of Erie, a Colorado home rule municipality (the "Town"), each a "Party" and collectively referred to herein as the "Parties."

Recitals

Whereas, the Parties are authorized to enter into this Agreement pursuant to C.R.S. §§ 29-1-201, *et seq.*;

Whereas, the County owns Prince Lake No. 1 (the "Reservoir"), a water storage reservoir in unincorporated Boulder County located in Section 27, Township 1N, Range 69W of the 6th P.M.;

Whereas, the Reservoir was constructed in 1879 and was decreed to store water for irrigation. The water stored in Reservoir is used primarily for the irrigation of Boulder County Open Space property;

Whereas, the Reservoir was historically classified as a Low Hazard dam by the Colorado Division of Water Resources Dam Safety Branch ("Dam Safety Branch"), but the classification was recently upgraded to a Significant Hazard dam;

Whereas, the County desires to rehabilitate the Reservoir and its dam to comply with the Dam Safety Branch's current classification requirements and to reduce the flood risk to downstream homes, property, and public infrastructure located in the Town and to comply with the new classification;

Whereas, the County has completed plans to rehabilitate the dam to create mitigations to reduce the potential for failure from a 50-year precipitation event to a 1,000-year precipitation event. A copy of the plans are attached hereto and incorporated herein as Exhibit A (the "Plans");

Whereas, among other elements, the Plans call for raising the dam height, installing a toe drain, modernizing and enlarging the outlet works, and enlarging the spillway and armoring it with riprap, all to increase the Reservoir's safety;

Whereas, the toe of the Reservoir's dam abuts the incorporated boundary of the Town and the right of way for 111th Street, a Town road. In order for the County to construct the Reservoir rehabilitation in accordance with the Plans, it will be necessary for the County to perform construction activities and place improvements on portions of the Town's property; and

Whereas, the Parties are entering into this Agreement to set forth the conditions under which the County may use the Town's property to rehabilitate the Reservoir.

Now, Therefore, in consideration of the mutual covenants below, and other good and valuable consideration, the receipt of which is acknowledged, the Parties agree to the following terms:

Term and Conditions

1. The Recitals set forth above are incorporated herein and made a part of this Agreement.

2. The County has applied to the Federal Emergency Management Agency ("FEMA") for a Hazard Mitigation Grant. If the County is awarded a Hazard Mitigation Grant, it is anticipated that construction will commence in 2024. If a Hazard Mitigation Grant is not awarded to the County, construction will be delayed until funding is secured.

3. So long as the remaining elements of this Agreement are met, the Town approves of the County's rehabilitation of the Reservoir in accordance with the Plans. The Town shall have the right to review and approve any material changes to the Plans once this Agreement is executed.

4. The County shall be responsible for obtaining all permits required in order to construct the Reservoir rehabilitation in accordance with the Plans including, without limitation applicable Town and/or County building, stormwater quality, and right-of-way permits, and any applicable state or federal permits.

5. The County accepts responsibility for ongoing maintenance of all improvements installed as part of the Plans, specifically including all improvement located on property owned by the Town. The Town hereby grants the County a license to enter property owned by the Town in order to inspect, maintain, and repair any infrastructure constructed pursuant to the Plans. If the County will be providing anything other than routine inspections or maintenance of any Town-owned property, the County will provide advance notice to the Town before any maintenance or repair work is completed.

6. The Plans call for installation of Turf Reinforcement Mat for erosion protection as shown in Exhibit A on private property belonging to HT Flatiron LP, a Texas Limited Partnership, whose property is located below the Reservoir within the Town of Erie (the "Flatiron Property"). The County has contacted HT Flatiron LP to seek permission to install the Turf Reinforcement Mat on the Flatiron Property. The Town is in negotiations to acquire the Flatiron Property that will be affected by construction of the Plans. If the Town acquires this property from HT Flatiron LP, this Agreement shall control the Flatiron Property affected by the Plans and shall supersede and replace any agreement reached between the County and HT Flatiron LP about any impact of the Plans on the Flatiron Property.

7. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either Party by the other Party, shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the representative to whom it is addressed or in lieu of such personal services, upon receipt in the United States mail, first-class postage prepaid, addressed to the following:

Town of Erie: Town Manager
 Town of Erie
 P.O. Box 750
 Erie, CO 80516

Boulder County: Director
 Boulder County Parks & Open Space
 P.O. Box 471
 Boulder, CO 80306

With a copy to: Office of the Boulder County Attorney
 P.O. Box 471
 Boulder, CO 80306

Either Party may change its address for the purpose of this paragraph by giving written notice of such change to the other Party in the manner provided in this paragraph.

8. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

9. Neither of the Parties may assign this Agreement, or parts hereof, or its duties hereunder without the express written consent of the other Party.

10. This Agreement may be amended or modified only in writing signed by both Parties. Either Party may terminate this Agreement by providing 90 days' written notice to the other Party, but once the dam rehabilitation project has been completed pursuant to the Plans, the County's maintenance obligation shall survive any termination of the Agreement.

11. This Agreement constitutes the entire agreement between the Parties relating to the rehabilitation of Prince Lake No. 1. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect.

12. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado, with venue in Boulder County for any litigation related to this Agreement.

13. Each Party agrees to be responsible for its own negligent actions or omissions and those of its officers, agents, and employees in the performance or failure to perform the Work under this Agreement. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

14. Nothing herein shall be construed as a waiver of the rights and privileges of the Town or the County under the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

15. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Contract: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101-121.

In Witness Whereof, the Parties have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

Town of Erie, Colorado

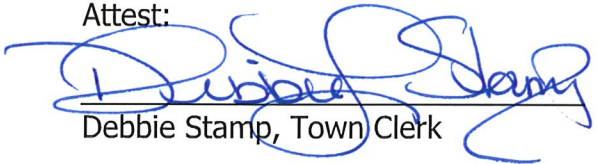


Justin Brooks, Mayor

County of Boulder

_____, Chair
Board of County Commissioners

Attest:



Debbie Stamp, Town Clerk

Attest:

Clerk to the Board of Commissioners

Approved as to Form:
Vladimir Ryzancev
Boulder County Attorney's Office

**Town of Erie
Resolution No. 24-089**

A Resolution of the Town Council of the Town of Erie Approving an Intergovernmental Agreement with Boulder County for the Rehabilitation of Prince Lake No. 1

Whereas, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to approve the Intergovernmental Agreement with Boulder County for the rehabilitation of Prince Lake No. 1.

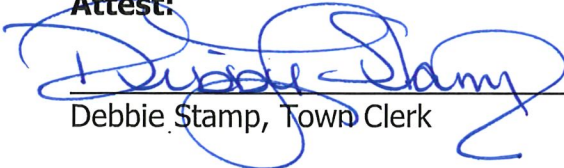
Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado that:

Section 1. The Intergovernmental Agreement is hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Intergovernmental Agreement on behalf of the Town.

Adopted this 11th day of June, 2024.



Justin Brooks, Mayor

Attest:


Debbie Stamp, Town Clerk

