

TO: Water and Sewer Board

FROM: Pieter Van Ry, Englewood Utilities and South Platte Renew Director
Sarah Stone, Utilities Deputy Director – Business Solutions and Engineering
Stephanie Ellis, Engineer III

DATE: June 11, 2024

Re: Agreements with Evergreen-Mineral & Santa Fe, L.L.C. and the City of Littleton for City Ditch Relocation and Utility Crossings

EXECUTIVE SUMMARY

Utilities staff is seeking Water and Sewer Board recommendation for City Council to approve several agreements with Evergreen-Mineral & Santa Fe, L.L.C (Evergreen) and the City of Littleton (Littleton) for the relocation and piping of a portion of City Ditch and proposed utility crossings of the City Ditch.

BACKGROUND

Three developers, Toll Southwest LLC (Toll), TB Angeline LLC (TBAL), and Evergreen, intend to develop the property on the southwest corner of S. Santa Fe Drive and W. Mineral Ave in the City of Littleton for residential and mixed-use purposes. The northern property, RiverPark, is being developed by Evergreen. The southern property, Santa Fe Park, is being developed by Toll and TBAL. The City of Englewood (City) has critical raw water infrastructure within both properties, including the City Ditch, the McLellan Pump Station, and the McLellan Reservoir Drain Line. Toll and Evergreen are proposing to relocate and pipe a portion of City Ditch as part of their development, as shown in **Figure 1**. Englewood City Council approved agreements for the relocation and piping of the City Ditch through Toll's property in July 2023, and construction was completed in 2023.

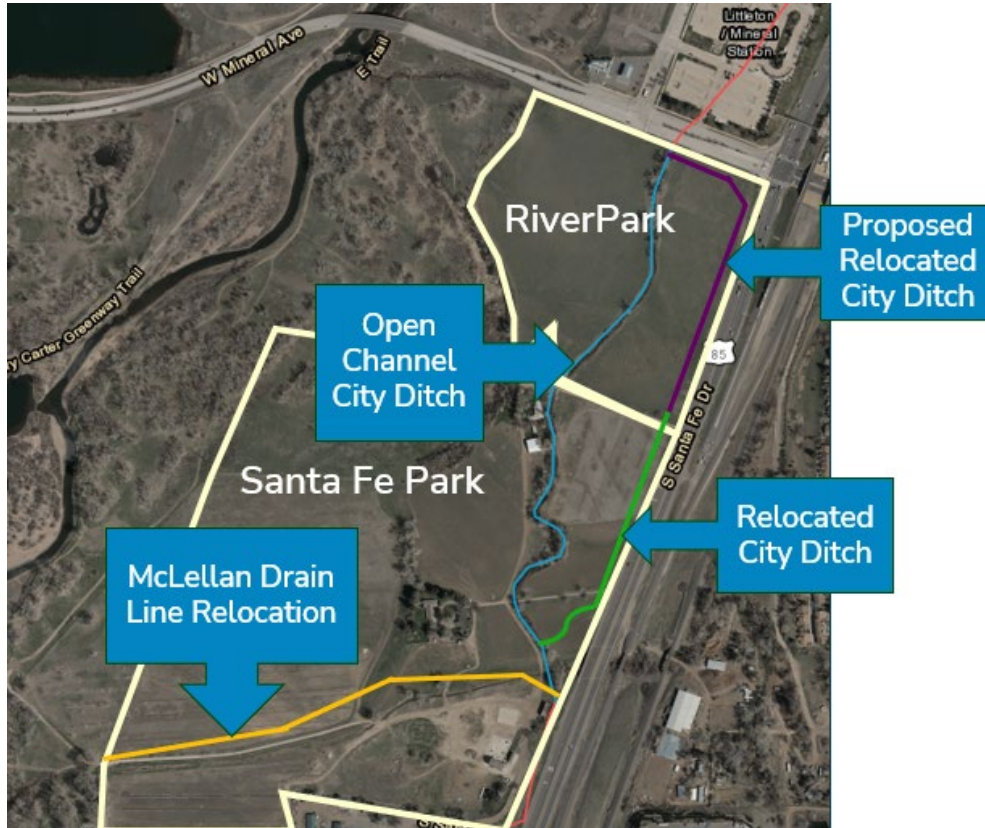


Figure 1: Relocated City Ditch through the Santa Fe Park and RiverPark Developments.

City staff reviewed Evergreen’s City Ditch relocation construction plans, verifying that the plans satisfy the City’s design standards and support the long-term operational needs for City Ditch. The proposed City Ditch relocation aligns with the existing open channel that the City intends to pipe as part of the City Ditch Piping Project. In addition, Evergreen and Littleton are proposing to cross the City Ditch with other utilities and complete aboveground improvements that overlap the City Ditch easement. Several agreements will be required to approve Evergreen’s proposed City Ditch relocation and the proposed utility crossings.

ANALYSIS

Various agreements between the City and the developers are necessary to protect the City Ditch infrastructure, which is critical for providing the City’s drinking water. Utilities staff drafted these agreements in conjunction with the City’s water rights attorneys and the City Attorney’s Office to ensure the easements and construction for the relocation of the City Ditch and proposed utility crossings meet the City’s needs for the future. Staff recommends Water and Sewer Board support City Council’s approval of the following agreements:

City Ditch Relocation Agreements:

1. Relinquishment and Grant of Easements (City Ditch): This agreement will grant the City a new easement for the relocated City Ditch on Evergreen’s property. It will relinquish the City’s existing prescriptive (unrecorded) and recorded City Ditch easements on Evergreen’s property.

2. Contract for Construction CFC-24-135: This construction agreement includes the terms and conditions for the relocation and piping of City Ditch on Evergreen's property. The terms in the agreement outline Evergreen's responsibility to furnish all labor and materials for the City Ditch relocation to City of Englewood Standards, as well as outline the construction timing, ownership conveyance of the piped ditch, and other general terms.

City Ditch Crossing Agreements:

1. City Ditch Crossing Agreement – Littleton Nichols Avenue Roadway Improvements: The proposed agreement between Littleton and the City defines the terms and conditions for the permanent utility crossing and surface improvements over the City Ditch easement at the proposed Nichols Avenue and Santa Fe Drive intersection. There will be at least seven feet of vertical separation between the buried utilities and the City Ditch. This agreement is proposed to be approved in substantially the same form as Littleton and Englewood are finalizing the agreement, and Littleton plans to bring it to their City Council for approval in mid-July.
2. Temporary Construction Easement for Littleton Nichols Avenue Roadway Improvements: This agreement permits Littleton's contractor to access the City Ditch easement during construction and includes the terms and conditions necessary to protect City Ditch while the contractor places utility lines above the ditch and completes other aboveground improvements. Littleton will notify the City before beginning work, and Utilities staff will inspect the work as needed. This agreement is proposed to be approved in substantially the same form as Littleton and Englewood are finalizing the agreement, and Littleton plans to bring it to their City Council for approval in mid-July.
3. City Ditch Crossing and License Agreement for Irrigation Line Crossing: The proposed agreement between Evergreen and the City defines the terms and conditions for the permanent crossing of the City Ditch with a proposed irrigation line. The City requires a minimum of 1.5 feet of vertical separation between other utilities and the City Ditch. There will be approximately 2.5 feet of vertical separation between the irrigation line and the City Ditch.
4. Temporary Construction Easement for Irrigation Line Crossing: This agreement permits Evergreen's contractor to access the City Ditch easement during construction and includes the terms and conditions necessary to protect City Ditch while the contractor places the irrigation line above the ditch. Evergreen will notify the City before beginning work, and Utilities staff will inspect the work as needed.

Additional agreements with other entities that require utility crossings of the City's infrastructure to serve the RiverPark and Santa Fe Park developments are also planned to be presented to the Water and Sewer Board and City Council for consideration in the third quarter of 2024.

FINANCIAL IMPLICATIONS

Evergreen will pay for the construction and relocation of the portion of City Ditch.



CONNECTION TO STRATEGIC PLAN

Infrastructure:

- Proactively, in a cost-effective manner, invests, maintains, and plans to protect water infrastructure

Sustainability:

- Infrastructure designed and maintained economically, equitably, and ecologically
- Protection of water resources, including rivers and streams

PROPOSED MOTION

Move to recommend that City Council approve, by Ordinance, Water and Sewer Board Agenda items 5.a.i. through 5.a.iv., as written:

- i. Relinquishment and Grant of Easements (City Ditch) with Evergreen-Mineral & Santa Fe, L.L.C for the relocation of City Ditch.
- ii. Contract for Construction CFC-24-135 with Evergreen-Mineral & Santa Fe, L.L.C for the relocation of City Ditch.
- iii. City Ditch Crossing Agreement with the City of Littleton for the permanent crossing of the City Ditch and aboveground improvements at the proposed Nichols Avenue and Santa Fe Drive intersection.
- iv. Temporary Construction Easement for Littleton Nichols Avenue Roadway Improvements
- v. City Ditch Crossing and License Agreement for Irrigation Line Crossing
- vi. Temporary Construction Easement for Irrigation Line Crossing

ATTACHMENTS

CAS/Relinquishment and Grant of Easements (City Ditch) with Evergreen
CAS/Contract for Construction CFC-24-135 with Evergreen
CAS/Crossing Agreement with Littleton
CAS/Temporary Construction Easement with Littleton
CAS/Crossing and License Agreement with Evergreen
CAS/Temporary Construction Easement with Evergreen
PowerPoint Presentation