

TOWN OF ERIE
BOARD OF TRUSTEES REGULAR MEETING ¹
Tuesday, February 11, 2014
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook Street, Erie, CO 80516

STUDY SESSION 5:45 P.M. COMMUNITY ROOM

I. CALL MEETING TO ORDER

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

III. APPROVAL OF THE AGENDA

IV. CONSENT AGENDA (The consent agenda is intended to contain items that are prepared to be decided without discussion. Any Board member may request removal of any item they do not want to consider without discussion or wish to vote no on, without jeopardizing the approval of other items on the consent agenda. Items removed will be placed under IX. General Business, a. in the order they appear on the Agenda.) (This should be done prior to the motion to approve.)

- a. Approval of the January 28, 2014 Meeting Minutes
- b. Resolution 14-27; A Resolution Awarding a Construction Contract for Arapahoe Ridge Drainage Improvements
- c. Resolution 14-28; A Resolution Approving the Purchase of 2014 Fleet Units
- d. Resolution 14-29; A Resolution Awarding a Construction Contract for Rebuilding Retaining Walls
- e. Resolution 14-31; A Resolution Awarding Service Contract for Open Space Herbicide Spraying
- f. Resolution 14-32; A Resolution Accepting Colorado Discretionary Aviation Grant in the Amount of \$300,000; And, Setting Forth Details in Relation Thereto.
- g. Ordinance 05-2014; An Ordinance Annexing the Andalusia Annexation to the Town of Erie, Colorado, Providing for the Effective Date of this Ordinance; Setting Forth Detail in Relation Thereto (SECOND READING)
- h. Ordinance 06-2014; An Ordinance Zoning the Andalusia Annexation Providing for the Effective Date of this Ordinance; Setting Forth Details in Relation Thereto (SECOND READING)
- i. Ordinance 08-2014; An Ordinance Of The Town Of Erie, Colorado, Amending Title 2, "Revenue And Finance," Chapter 10, "Fee Schedule," Section 6, "Building Inspection Fees," And Chapter 11, "Sales And Use Tax," Section 2, "Use Tax," Of The Erie Municipal Code; And, Setting Forth Details In Relation Thereto. (SECOND READING)

¹ FOR MORE INFORMATION ON THE AGENDA ITEMS LISTED OR FOR INDIVIDUALS WITH DISABILITIES NEEDING AUXILIARY AIDS OR TO REQUEST ASSISTANCE, PLEASE CONTACT THE TOWN CLERK'S OFFICE AT 645 HOLBROOK STREET, P.O. BOX 750, 303-926-2731.

V. **PUBLIC COMMENT** (This agenda item provides the public an opportunity to discuss items other than ordinances on second reading, public hearings and consent agenda items that are not on the agenda. The Board of Trustees is not prepared to decide on matters brought up at this time, but if warranted, will place them on a future agenda.)

VI. **PROCLAMATIONS AND PRESENTATIONS** (This agenda item is intended to contain Presentations to the Board that do not require any Board action. Presentations are limited to fifteen (15) minutes.)

NONE SCHEDULED

VII. **RESOLUTIONS** (This agenda item is for all matters that should be decided by resolutions.)

PUBLIC HEARING

OPEN PUBLIC HEARING

- a. Resolution 14-30; A Resolution Approving a Special Review Use for 105 ½ Briggs Street to Allow an Accessory Dwelling Unit.

CLOSE PUBLIC HEARING

- b. Resolution 14-33; A Resolution Of The Town Of Erie, Colorado Repealing Resolution 14-26 Previously Adopted On January 28, 2014; Authorizing The Town Of Erie, Colorado, To Enter Into A New Golden Run Annexation Agreement; Authorizing And Directing The Appropriate Town Officers To Sign The New Golden Run Annexation Agreement; And, Setting Forth Details In Relation Thereto.

VIII. **ORDINANCES** (To adopt an Ordinance of the First Reading, a Motion/Second/Approval is required to suspend Resolution 02-44 and adopt the Ordinance on the First Reading.)

- a. An Ordinance Of The Town Of Erie, Colorado, Repealing And Re-Enacting Title 6, "Police And Traffic Regulations," Chapter 7, "Offenses Relating To Animals," Sections 6-7-3.A.2 And A.3, "Dogs," Sections 6-7-4.B.1 And B.3, "Impoundment And Redemption Provisions," And, Section 6-7-7 "Cruelty To Animals," Of The Municipal Code Of The Town Of Erie, Repealing And Re-Enacting Title 2, "Finance And Revenue," Chapter 10, "Fee Schedule," Section 2-10-8 "Miscellaneous Fees" Related To Dog License Fees, Of The Municipal Code Of The Town Of Erie; And, Setting Forth Details In Relation Thereto. **(FIRST READING)**

IX. **GENERAL BUSINESS** (This agenda item is reserved for matters that are ready for Board action, and do not fit into other categories, i.e. resolutions, ordinances...)

- a. Area Deficiency Incentive
- b. William Shatner's Moving America Forward
- c. Old Town Redevelopment Impact Fees

X. **STAFF REPORTS** (This agenda item is reserved for specific items from Staff requiring Board direction or just relaying important information.)

- a. A.J. Krieger, Town Administrator

XI. **BOARD OF TRUSTEES REPORTS & APPOINTMENTS** (This agenda item is for all Board of Trustees reports, Board & Commission Appointment, and items of information as well as Board discussion items, not listed on the agenda.)

- a. BOT Reports

XII. **ADJOURNMENT** (The Board's Goal is that all meetings be adjourned by 10:30pm. An agenda check will be conducted at or about 10:00 p.m., and no later than at the end of the first item finished after 10:00 p.m. Items not completed prior to adjournment will generally be taken up at the next regular meeting.)

TOWN OF ERIE
BOARD OF TRUSTEES REGULAR MEETING 1
Tuesday, January 28, 2014
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook, Erie, CO 80516

I. CALL MEETING TO ORDER

Mayor Wilson called the January 28, 2014 Regular Meeting of the Board of Trustees to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

Roll Call: Trustee Carnival –present
 Trustee Gruber – present
 Mayor Pro Tem Grassi – present
 Trustee Moore – present
 Trustee Mahe - present
 Trustee Woog – present
 Mayor Wilson – present

III. APPROVAL OF THE AGENDA

Action: Mayor Pro Tem Grassi moved to approve the January 28, 2014 Agenda. The motion was seconded by Trustee Carnival; the motion carried with all present voting in favor thereof.

IV. CONSENT AGENDA

- a. Approval of the January 14, 2014 Meeting Minutes
- b. Resolution 14-23; A Resolution Awarding a Construction Contract for Irrigation Pond Repairs
- c. Resolution 14-24; A Resolution Awarding a Janitorial Supplies Contract

Action: Mayor Pro Tem Grassi moved to approve the January 28, 2014 Consent Agenda. Trustee Carnival seconded the motion. The motion carried with the following roll call vote:

Roll Call: Trustee Carnival - Yes
 Trustee Gruber – Yes
 Trustee Mahe - Yes
 Mayor Pro Tem Grassi – Yes
 Trustee Moore – Yes
 Trustee Woog - Yes
 Mayor Wilson – Yes

V. PUBLIC COMMENT

Mike Mazzocco, 874 Quintana Lane, Erie, CO. spoke on behalf of the Keep Erie Safe Committee and urged the Board to vote in favor of the Ballot question for the construction of a new public safety facility.

Leslie Ball, 1455 Serene Drive, Erie, CO. expressed issues with the Golden Run Annexation.

Lee Carter, 1365 Hoffman Drive, Erie, CO. spoke in support of the Erie Single Track project and asked for legislation regulating Food Trucks.

Adam Haid, 1376 Lawson Avenue, Erie, CO. updated the Board on the Single Track Project.

VI. RESOLUTIONS

- a. **Resolution 14-22; Resolution 14-22; Consideration of Resolution 14-22: A Resolution of the Town of Erie, Colorado, Authorizing a TABOR Election on April 1, 2014, Fixing the Ballot Title and Question; and Setting Forth Details in Relation Thereto**

The Board of Trustees has directed staff to craft language for a TABOR ballot issue for the construction of a new police station and municipal court building to be included on the ballot for the April 1, 2014 Regular Municipal Election. Resolution 14-22 authorizes a TABOR Election and fixes the Ballot Question for the April 1, 2014 Regular Municipal Election.

Action: Mayor Wilson moved to approve Resolution 14-22; the motion was seconded by Trustee Moore. Trustee Gruber asked for a friendly amendment to include wording to use Public Facility Impact Fees to offset the total cost. Mayor Wilson did not accept this amendment. The motion carried with the following roll call vote:

Roll Call: Trustee Carnival - Yes
 Trustee Gruber – Yes
 Trustee Mahe - Yes
 Mayor Pro Tem Grassi – Yes
 Trustee Moore – Yes
 Trustee Woog - Yes
 Mayor Wilson – Yes

Action: Mayor Wilson called for a break at 7:15 pm and reconvened the meeting at 7:35 p.m.

- a. **Resolution 14-26 A Resolution Authorizing The Town Of Erie, Colorado, To Enter Into The Golden Run Annexation Agreement; Authorizing And Directing The Appropriate Town Officers To Sign Said Annexation Agreement; And, Setting Forth Details In Relation Thereto.**

A.J. Krieger, Town Administrator, presented staff recommendations for Resolution 14-26. The site is located at the northwest corner of Vista Parkway and County Line Road and is generally described as the North ½ of Section 25, Township 1 North, Range 69 West of the 6th Principle Meridian. The Resolution, provided for consideration by the Board of Trustees, accepts and authorizes the appropriate town official to sign the Golden Run Annexation Agreement which outlines obligations of the Town and the Owners for the Golden Run property. Public notice is not required for the Board of Trustees to enter into an Annexation Agreement. Staff recommended approval of Resolution 14-26; a resolution accepting and authorizing the appropriate Town official to sign the Golden Run Annexation Agreement. Aaron Harber was present to answer questions from the Board of Trustees.

RESOLUTIONS (continued)

Action: Following Board discussion, Mayor Wilson moved to approve Resolution 14-26; the motion was seconded by Trustee Mahe. Trustee Carnival asked for a friendly amendment to include in Section 1C "and the Town" to read as follows: "The Property shall be entitled to a specific total number of units, as detailed by the Owner and Town, but said number, in total for the entire Property, shall not exceed the maximum which otherwise would be allowed by the Town of Erie Comprehensive Plan (as approved in 2005). Subject to the Town's legal requirements and the terms of the Golden Run Final Development Plan, as agreed to by the Owner **and the Town** may distribute and/or allocate the total number of units throughout the Property as it sees fit as long as the cumulative maximum number of units does not exceed that allowed for the entire Property by the restrictions, if any, of the Comprehensive Plan. Both Mayor Wilson and Trustee Mahe accepted the amendment to the motion. The motion carried with the following Roll Call vote:

Roll Call: Trustee Carnival - Yes
Trustee Gruber - No
Trustee Mahe - Yes
Mayor Pro Tem Grassi - Yes
Trustee Moore - No
Trustee Woog - No
Mayor Wilson - Yes

VII. ORDINANCES

- a. Ordinance 07-2014; An Ordinance of the Town of Erie, Colorado, Approving the Initial Zoning for Golden Run Planned Development to PD – Planned Development; and Providing, for the Effective Date of This Ordinance; and Setting Forth Details in Relation Thereto.

A.J. Krieger, Town Administrator, presented staff recommendations for the approval of Ordinance 45-2013. The Golden Run property was annexed by the Town of Erie on October 8, 2013. State statute requires that annexed property be granted zoning within ninety days by the annexing municipality. The property owner has requested that the Golden Run property be zoned PD-Planned Development. The specifics of the permitted uses and development standards of the Golden Run property are outlined in the Golden Run Planned Development Initial Development Plan ("GRPD-IDP"). The GRPD-IDP allows the current uses of the property (primarily single-family residential and agricultural uses) to continue on the property and be subject to the Town's RR-Rural Residential development standards. It is the intent of the property owner to amend the GRPD-IDP in the future to allow development beyond what is allowed by the GRPD-IDP. Any proposed amendments to the GRPD-IDP will require review under Title 10 of the Town Code. Staff recommended approval of Ordinance 45-2013; an Ordinance Zoning the Golden Run property to PD-Planned Development.

Action: Mayor Wilson moved to approve Ordinance 07-2014 contingent upon the applicant signing the amended Annexation Agreement; the motion was seconded by Trustee Carnival. The motion carried with the following roll call vote:

Trustee Carnival - Yes
Trustee Gruber - No
Trustee Mahe - Yes
Mayor Pro Tem Grassi - Yes
Trustee Moore - No
Trustee Woog - No
Mayor Wilson - Yes

ORDINANCES (continued)

Action: Mayor Wilson called for a break at 9:06 p.m. and reconvened the meeting at 9:20 p.m.

- b. **Ordinance 08-2014; An Ordinance Of The Town Of Erie, Colorado, Amending Title 2, "Revenue And Finance," Chapter 10, "Fee Schedule," Section 6, "Building Inspection Fees," And Chapter 11, "Sales And Use Tax," Section 2, "Use Tax," Of The Erie Municipal Code; And, Setting Forth Details In Relation Thereto.**

Action: This was the first reading of Ordinance 08-2014 and it will be brought back for Board action at the February 11, 2014 Regular Meeting of the Board of Trustees.

VIII. LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES

ANDALUSIA ANNEXATION

PUBLIC HEARING

Action: Mayor Wilson opened the Public Hearings for Resolution 14-25 and Ordinance 06-2014 at 9:06 p.m.

- a. **Resolution 14-25; A Resolution Regarding the Andalusia Annexation; Adopting Certain Findings of Fact and Conclusions Favorable to the Annexation**

Todd Bjerkaas, Planner, presented staff recommendations for the approval of Resolution 14-25. The site is located at the southwest corner of State Highway 52 and Weld County Road (WCR) 3 and is generally described as a portion of Section 6, Township 1 North, Range 68 West of the 6th Principle Meridian. Saeed & Forough Moradi Family Trust, K.A.C. Holdings LLC, a Delaware limited liability company; the Mike & Shahla Moradi Trust; the Katina Moradi Trust; the Albert Moradi Trust; the Caroline Moradi Trust; and I & J PARTNERSHIP, LLP, a California Limited liability partnership have submitted a Petition for Annexation of their 318.99 acre unincorporated Weld County property into the Town of Erie. The application has been processed in accordance with C.R.S. 31-12-101, et seq., as amended, and Section 7.15 of the Town of Erie Unified Development Code. On December 10, 2013 the Board of Trustees held a Substantial Compliance hearing on the Andalusia Annexation Petition and established January 28, 2014 as the Public Hearing date for adopting Findings of Fact in favor of the proposed annexation. Staff finds the application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S.31-12-108. The Annexation is in compliance with the required noticing requirements of C.R.S. 31-12-108; with published notice in the Colorado Hometown Weekly, on December 18, 2013; December 25, 2013; January 1, 2014; and January 8, 2014. Staff recommends approval of Resolution 14-25: A Resolution Regarding the Andalusia Annexation; Adopting Certain Findings of Fact and Conclusions Favorable To The Annexation.

- b. **Ordinance 05-2014; An Ordinance Annexing the Andalusia Annexation to the Town of Erie, Colorado, Providing for the Effective Date of this Ordinance; Setting Forth Detail in Relation Thereto.**

Todd Bjerkaas, Planner, presented staff recommendations for the approval of Ordinance 05-2014. Saeed & Forough Moradi Family Trust, K.A.C. Holdings LLC, a Delaware limited liability company; the Mike & Shahla Moradi Trust; the Katina Moradi Trust; the Albert Moradi Trust; the Caroline Moradi Trust; and I & J PARTNERSHIP, LLP, a California Limited liability partnership have submitted a Petition for Annexation of their

LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)

ANDALUSIA ANNEXATION

318.99 acre unincorporated Weld County property into the Town of Erie. The application has been processed in accordance with C.R.S. 31-12-101, et seq., as amended, and Section 7.15 of the Town of Erie Unified Development Code. On December 10, 2013 the Board of Trustees held a Substantial Compliance hearing on the Andalusia Annexation Petition and established January 28, 2014 as the Public Hearing date for adopting Findings of Fact in favor of the proposed annexation. Ordinance 05-2014 annexes the subject property. Staff finds the application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-108. The Annexation is in compliance with the required noticing requirements of C.R.S. 31-12-108; with published notice in the Colorado Hometown Weekly, on December 18, 2013; December 25, 2013; January 1, 2014; and January 8, 2014. Staff recommends the approval of Ordinance 05-2014: an Ordinance Annexing the Andalusia property to the Town of Erie.

PUBLIC HEARING

- c. **Ordinance 06-2014; An Ordinance Zoning the Andalusia Annexation Providing for the Effective Date of this Ordinance; Setting Forth Details in Relation Thereto**

Todd Bjerkaas, Planner, presented staff recommendations for the approval of Ordinance 05-2014 In August 2013, the authorized representative of the owners of the Andalusia property filed an application to annex the property into the Town of Erie. On December 10, 2013 the Board of Trustees held a Substantial Compliance hearing on the Andalusia Annexation Petition and accepted the petition through the approval of Resolution 13-160. This resolution established January 28, 2014 as the Public Hearing date for adopting Findings of Fact in favor of the proposed annexation. Concurrent with the Annexation application, the owner filed an Initial Zoning application with the Town requesting initial zoning of CC – Community Commercial and LR – Low Density Residential for the Andalusia property. Staff finds the application in compliance with Section 7.4, Initial Zoning, of Title 10 of the Municipal Code. Notice of this Public Hearing has been provided in compliance with the UDC. Staff recommends approval of Ordinance 06-2014; an Ordinance Zoning the Andalusia property to CC – Community Commercial and LR – Low Density Residential.

Applicant Presentation

Kirby Smith, Planner, 6201 Hudson Court, Centennial, CO. presented a conceptual sketch plan for the Andalusia Development and answered questions from the Board of Trustees.

Jerry Bouldin, 3733 Florentine Circle, Longmont, CO 80503, was present as the Owner Representative and answered questions from the Board of Trustees.

Public Testimony

Greg Baumer, 1242 Highland Way, Erie, CO. expressed concerns regarding the Adalusia Annexation traffic impact and usable open space.

Sandy Mullins, 5212 Buffalo Road, Erie, CO. expressed concerns regarding the impact of the Andalusia Development on her property, traffic impacts and the impact to property values.

Bob Hancock, 5768 CR 3, Erie, CO. expressed concerns about the impact of the development on traffic in the area.

Melody Mundell, 6158 SH52, Erie, CO. expressed concerns about the impact of the development to her business and property.

LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)

ANDALUSIA ANNEXATION

Action: Mayor Wilson closed the Public Hearings for Resolution 14-25 and Ordinance 06-2014 at 10:02 p.m.

Action: Trustee Carnival moved to approve Resolution 14-25; the motion was seconded by Mayor Pro Tem Grassi. The motion carried with all present voting in favor thereof.

Action: This was the first reading of Ordinance 05-2014 and this will be returned for Board action at the February 11, 2014 Regular Meeting of The Board of Trustees.

Action: This was the first reading of Ordinance 06-2014 and this will be returned for Board action at the February 11, 2014 Regular Meeting of The Board of Trustees.

IX. GENERAL BUSINESS

a. Coal Creek Park Discussion

Action: General Board consensus was to schedule a Study Session with Design Consultants at a future date to be determined.

b. Moving America forward with William Shatner" Award and Promo Video."

Mayor Wilson presented a proposal to the Board to produce a video to promote the Town.

Action: Mayor Wilson moved to proceed with the Talent Agreement and the Licensure Agreement with Shatners Moving America Forward Productions. The motion was seconded by Mayor Pro Tem Grassi; the motion failed with the following roll call vote:

Trustee Carnival - No
Trustee Gruber - No
Trustee Mahe - Yes
Mayor Pro Tem Grassi - Yes
Trustee Moore - No
Trustee Woog - No
Mayor Wilson - Yes

LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)

ANDALUSIA ANNEXATION

c. Transfer Money for Legal Expense to Insure Maximum FAA Funding to Erie (EIK) Airport

Action: Trustee Woog moved to transfer money for legal defense to insure maximum FAA funding to the Erie Airport. The motion was seconded by Trustee Mahe; the motion carried with a four (4) for and three (3) against, with Trustees Carnival, Moore and Gruber voting no.

X. BOARD OF TRUSTEES REPORTS

Trustee Moore noted an upcoming Public Works Open House on February 6th for Capital Projects.

Mayor Pro Tem Grassi directed staff to bring back legislation on Food Trucks based on Longmont's legislation.

Trustee Mahe commented on the recent Board Retreat and mentioned an upcoming CML training he will be attending.

XI. ADJOURNMENT

Action: Mayor Pro Tem Grassi moved to adjourn the January 28, 2014 regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Trustee Moore. The motion carried with all present voting in favor thereof.

Action: Mayor Wilson adjourned the January 28, 2014 Regular Meeting of the Town of Erie Board of Trustees at 10:40 p.m.

Respectfully Submitted,

Nancy J. Parker, CMC, Town Clerk

Joseph A. Wilson, Mayor

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **RESOLUTIONS**
 Consideration of Resolution 14-27: A Resolution Authorizing Award Of A Construction Contract for the Arapahoe Ridge Drainage Improvement Project To Diaz Construction Group, in The Amount Of \$179,370.00; And Setting Forth Details In Relation Thereto.

DEPARTMENT: Public Works

PRESENTER/PREPARER: **Gary Behlen, Director of Public Works**
Wendi Palmer, Public Works Civil Engineer

FISCAL INFORMATION: Cost as Recommended: \$ 215,370
 Balance Available: \$ 355,500
 Budget Line Item 010 . 07 . 110 . 580950 . 130029
 Number:
 New Appropriation Required: Yes No

STAFF RECOMMENDATION: Approving Resolution 14-27 awarding said contract, authorizing the Town Administrator to execute said contract, authorizing Staff to expend contracted funds and contingency funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The 2013 Capital Budget includes funds for the Arapahoe Ridge Drainage Improvement Project. During the winter of 2011/2012 staff became aware of an icing issue in Arapahoe Ridge. Town staff requested J3 Engineering Consultants to perform an Ice Dam Assessment. Based on the recommendations of the Ice Dam Assessment a project was included in the 2013 budget to design and construct drainage improvements reducing ice dams during the winter months.

At the July 23, 2013 Board Meeting a design contract was awarded to JVA Consulting Engineers. JVA Consulting Engineers completed the design and prepared bid documents for this project.

An Invitation to bid was posted on the Town's website on December 17, 2013 to ensure that local contractors were notified about this project. No Erie contractors submitted bids.

A pre-bid meeting was held on January 8, 2014 and the following bids were received on January 29, 2014:

Fee Proposal Information

Diaz Construction Group	\$179,370.00
Farner Enterprises, Inc.	\$184,040.35
Blanco, Inc.	\$210,000.00
MSI Enterprises, Inc.	\$238,824.47
DeFalco Construction Company	\$243,011.56
EZ Excavating	\$268,554.75
53 Corporation, LLC	\$299,894.50
Duran Excavating, Inc.	\$311,350.00
Engineer's Estimate	\$285,130.00

The low bidder is Diaz Construction Group. Diaz Construction Group successfully completed the Levee

Drainage Project for the Town of Erie in 2013. Diaz Construction Group has been in business in Colorado for 4 years. In addition to performing work for the Town of Erie, other municipalities they have performed recent work for include; Pueblo, Greeley, Edgewater, Englewood, and Littleton. Staff has reviewed the bids and recommends the award of the contract to Diaz Construction Group.

Project Budget Summary

Contract	\$179,370.00
Contingency (20%)	\$36,000.00
Total	\$215,370.00

Project Schedule

Notice of Award	February 12, 2014
Notice to Proceed	February 26, 2014
Construction Complete	May 2014

Board Goal

This serves the Board's goal to maintain a safe community in which to live, work, learn, and play.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
 _____ Police Chief
_____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 14-27
- b. Vicinity Map

RESOLUTION NO. 14-27

A RESOLUTION OF THE TOWN OF ERIE, AWARDING A CONSTRUCTION CONTRACT FOR THE ARAPAHOE RIDGE DRAINAGE IMPROVEMENT PROJECT TO DIAZ CONSTRUCTION GROUP IN THE AMOUNT OF \$179,370.00; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, Colorado wishes to award a Construction Contract to Diaz Construction Group for the Arapahoe Ridge Drainage Improvement Project in the amount of \$179,370.00; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into such a contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That the contract between the Town of Erie and Diaz Construction Group is found to be a reasonable and acceptable contract for the Arapahoe Ridge Drainage Improvement Project.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the contract with Diaz Construction Group and the appropriate Town Officers are hereby authorized and directed to sign and bind the Town of Erie to said contract in the amount of \$179,370.00 with a contingency not to exceed \$36,000.00.

Section 3. That entering into the contract is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Joseph A. Wilson Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

(CONCEPTUAL INLET AND STORM PIPE IMPROVEMENT AREAS)



Photo and Sketch are Not to Scale

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **CONSENT AGENDA**
 Consideration Of Resolution 14-28; A Resolution Authorizing The Purchase Or Financing Of 2014 Approved Fleet Vehicle Units In The Amount Of Not-To-Exceed \$187,590.39, And Setting Forth Details In Relation Thereto.

DEPARTMENT: Public Works

PRESENTER/PREPARER **Gary Behlen, Director of Public Works**
Jody Lambert, O&M Division Manager

FISCAL INFORMATION: Cost as Recommended: **\$158,400; \$29,300**
 Balance Available: \$195,900; \$29,300
 Budget Line Item Number: 001 . 07 . 450 . 580410 . 000000
 010 . 07 . 760 . 580410 . 000000
 New Appropriation Yes No

STAFF RECOMMENDATION: **Approve Resolution 14-28 authorizing said purchases, authorizing the Town Administrator to execute purchases, and authorizing Staff to expend funds for purchase and financing.**

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The 2014 Operating Budget includes purchasing of replacement units for Investigations (replacing unit 731), Patrol (replacing unit 733) Police Administration (replacing unit 714 which was originally approved in 2013 but unit 901 was auctioned instead) and Storm Operations (replacing unit 116). The following is a summary of those units being purchased.

Division	Type	Budget	State Bid	Accessories	Total Cost	Budget Savings
Investigations	Jeep Cherokee	\$29,000	\$25,100	\$265.00	\$25,365.00	\$3,635.00
Patrol	Ford SUV	\$52,000	\$29,585	\$22,100.60	\$51,685.60	\$314.40
PD Admin	Ford SUV	\$36,300	\$25,848	\$9,851.67	\$35,699.67	\$600.33
Storm Ops	Chevy Silverado	\$29,300	\$27,123	\$2,111.90	\$29,234.90	\$65.10
Total		\$146,600	\$107,656	\$34,329.17	\$141,985.17	\$4,614.83

The 2014 Operating Budget also includes financing of new and replacement units for Parks (one new utility truck, replacing unit 302 and 310) and Administration (replacing unit 136). The following is a summary of those units being financed at 6.59% for 3 years. The accessories cannot be included in the financing and therefore are being paid in the first year's payments. **NOTE: All financing information will be finalized between the Finance Department and the Finance company prior to purchases being completed.**

Division	Type	Budget	State Bid	Accessories	Total Cost	Budget Savings
Parks	Chevy Silverado Pickup	\$16,100	\$28,500	\$2,111.99	\$30,611.99	\$3,549.45
Parks	Chevy Silverado Pickup	\$16,100	\$27,123	\$2,111.99	\$29,234.99	\$4,053.81
Parks	Chevy Silverado Pickup	\$16,100	\$27,123	\$2,111.99	\$29,234.99	\$4,053.81
Admin	Dodge Journey	\$8,900	\$23,667	\$100.00	\$23,767.00	(\$62.29)
Total		\$57,200	\$100,956	\$11,892.97	\$112,848.97	\$11,594.78

Below is the financing payments:

Division	Type	Total Cost	2014	2015	2016
Parks	Chevy Silverado Pickup	\$30,611.99	\$12,550.55	\$10,438.56	\$10,438.56
Parks	Chevy Silverado Pickup	\$29,234.99	\$12,046.19	\$9,934.20	\$9,934.20
Parks	Chevy Silverado Pickup	\$29,234.99	\$12,046.19	\$9,934.20	\$9,934.20
Admin	Dodge Journey	\$23,767.00	\$8,962.29	\$8,862.29	\$8,863.29
Total		\$112,848.97	\$45,605.22	\$39,169.25	\$39,170.25

Board Goal

This serves the Board's goal for Infrastructure – Fund and provide essential infrastructure that corresponds with the planned rate of growth.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
 _____ Police Chief
_____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 14-28

RESOLUTION NO. 14-28

A RESOLUTION OF THE TOWN OF ERIE, COLORADO AUTHORIZING THE PURCHASE OF APPROVED 2014 FLEET UNITS IN AN AMOUNT NOT TO EXCEED \$187,590.39; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO EXECUTE PURCHASE AND AUTHORIZE STAFF TO EXPEND FUNDS FOR THE PURCHASE; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the 2014 operating Budget includes purchasing replacement fleet units for Public Works and the Police Department; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to make this purchase.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That the purchase of eight units (see exhibit A), is found to be a reasonable and acceptable purchase.

Section 2. That the Town of Erie be and is hereby authorized and directed to purchase the vehicles, and appropriate Town Officers are hereby authorized and directed to execute the purchase and expenditures of funds.

Section 3. That entering into this purchase is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014 BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado Municipal Corporation

By _____
Joseph A. Wilson, Mayor

ATTEST:

Nancy J. Parker, CMC, Town Clerk

Exhibit to Resolution 14-28

Division	Type	Budget	State Bid	Accessories	Total Cost	Budget Savings
Investigations	Jeep Cherokee	\$29,000	\$25,100	\$265.00	\$25,365.00	\$3,635.00
Patrol	Ford SUV	\$52,000	\$29,585	\$22,100.60	\$51,685.60	\$314.40
PD Admin	Ford SUV	\$36,300	\$25,848	\$9,851.67	\$35,699.67	\$600.33
Storm Ops	Chevy Silverado	\$29,300	\$27,123	\$2,111.90	\$29,234.90	\$65.10
Total		\$146,600	\$107,656	\$34,329.17	\$141,985.17	\$4,614.83

Division	Type	Budget	State Bid	Accessories	Total Cost	Budget Savings
Parks	Chevy Silverado Pickup	\$16,100	\$28,500	\$2,111.99	\$30,611.99	\$3,549.45
Parks	Chevy Silverado Pickup	\$16,100	\$27,123	\$2,111.99	\$29,234.99	\$4,053.81
Parks	Chevy Silverado Pickup	\$16,100	\$27,123	\$2,111.99	\$29,234.99	\$4,053.81
Admin	Dodge Journey	\$8,900	\$23,667	\$100.00	\$23,767.00	(\$62.29)
Total		\$57,200	\$100,956	\$11,892.97	\$112,848.97	\$11,594.78

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: CONSENT AGENDA
Consideration of Resolution 14-29: A Resolution Authorizing Award Of A Construction Contract To ECI Site Management, in The Amount Of \$41,532.70 for repairs to a soil riprap wall and two (2) block retaining walls along Coal Creek Trail

DEPARTMENT: Public Works

PRESENTER/PREPARER: Gary Behlen, Director of Public Works
Gary Hegner, Public Works-Parks Division Manager

FISCAL INFORMATION: Cost as Recommended: \$ 49,839.24
Balance Available: \$
Budget Line Item 001 . 04 . 110 . 580950 . 130056
Number:
New Appropriation Required: Yes No

STAFF RECOMMENDATION: Approving Resolution 14-29 awarding said contract, authorizing the Town Administrator to execute said contract, authorizing Staff to expend contracted funds and contingency funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

During the September flood event the retaining walls and soil riprap wall located along the Coal Creek Trail, located north of the Cheesman Street Bridge and south of Reliance Park were damaged by high water volume.

This project has been identified as part of the FEMA recovery effort, 75% funded by FEMA 12.5% funded by the State of Colorado and the Town will be responsible for 12.5%.

The Invitation to bid was emailed to eleven contractors and posted on the Town's website on January 20, 2014 to ensure that local contractors were notified about this project. No Erie contractors submitted bids. The project's small scope caused several firms to decline bidding on the repairs. The town received one bid, from ECI Site Management.

Bid Information

Contractor	Bid Price
ECI Site Management	\$41,532.70

ECI Site Management is based in Loveland, CO. They have been in business in Colorado for many years and have considerable experience in major construction/renovation projects. They have successfully worked for the Town on previous projects, including the construction of the Street League Skatepark.

Project Budget Summary

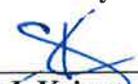
Contract	\$41,532.70
Contingency (20%)	\$8,306.54
Total	\$49,839.24

Board Goal

This serves the Board's goal to maintain a safe community in which to live, work, learn, and play.

Staff Review:

Approved by:


A.J. Krieger

Town Administrator

____ Town Attorney
____ Town Clerk
____ Community Development Director
____ Finance Director
____ Police Chief
 Public Works Director

ATTACHMENTS:

a. Resolution 14-29

RESOLUTION NO. 14-29

A RESOLUTION OF THE TOWN OF ERIE, AWARDING A CONSTRUCTION CONTRACT FOR THE REPAIR TO RETAINING WALLS ALONG COAL CREEK TRAIL TO ECI SITE MANAGEMENT IN THE AMOUNT OF \$41,532.70; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, Colorado wishes to award a Construction Contract to ECI Site Management repairs to retaining wall along Coal Creek Trail in the amount of \$41,532.70; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into such a contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That the contract between the Town of Erie and ECI Site Management is found to be a reasonable and acceptable contract for the repair of retaining walls along Coal Creek Trail.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the contract with ECI Site Management and the appropriate Town Officers are hereby authorized and directed to sign and bind the Town of Erie to said contract in the amount of \$41,532.70 with a contingency not to exceed \$8,306.54.00.

Section 3. That entering into the contract is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Joseph A. Wilson Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM

Board Meeting Date: February 11, 2014

SUBJECT: **CONSENT AGENDA**
Consideration of Resolution 14-31: A Resolution Awarding a contract for herbicide application for Town-owned/maintained open space and roadsides to Schneider & Sons, Inc., dba Weed Control Services Inc.; And Setting Forth Details In Relation Thereto.

DEPARTMENT: Public Works
PRESENTER/PREPARER: **Gary Behlen, Director of Public Works**
Gary Hegner, Parks Maintenance Division Manager

FISCAL INFORMATION: Cost as Recommended: **\$17,525.00**
Balance Available: **\$38,300.00**
Budget Line Item Number: 001 . 07 . 810 . 520124 . 000000
New Appropriation Required: Yes No

STAFF RECOMMENDATION: Approving Resolution 14-31 awarding said contract, authorizing the Town Administrator to execute said contract, authorizing Staff to expend funds as appropriated.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The 2014 Parks Division General Fund Budget includes funds for herbicide treatment within Town-owned/maintained open space and roadsides totaling an estimated 317 acres. Included in this contract is an option for annual renewal for up to three years (award plus two renewals) with a maximum price increase of 2% annually if both the Town and contractor desire to continue with renewal.

Bids were sent out on January 3, 2014 and posted on the Town's website. Bids were received and opened on January 27, 2014. For this service, the Town received seven (7) bids and found 3 to be non-responsive.

Bid Information:

<u>Responsive Contractors</u>	<u>Bid Price</u>
Schneider & Sons, Inc dba Weed Control Services	\$17,525.00
DBI Services	\$40,715.00
Horizon Environmental Services, Inc.	\$84,313.30
Summit Forests, Inc.	\$457,200.00

Schneider & Sons Inc. dba Weed Control Services is based in Longmont, CO and has been in business for more than 20 years. Schneider & Sons have performed herbicide application multiple times for the Town with good results.

The Invitation to bid was posted on the Town's website to ensure that local contractors were notified about this project. No Erie contractors submitted bids.

Board Goal

This serves the Board's goal for Infrastructure – Fund and provide essential infrastructure that corresponds with the planned rate of growth.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
_____ Police Chief
 Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

a. Resolution 14-31

RESOLUTION NO. 14-31

A RESOLUTION AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO A CONTRACT, WITH SCHNEIDER & SONS, INC. DBA WEED CONTROL SERVICES, INC. FOR HERBICIDE APPLICATIONS FOR TOWN OWNED AND MAINTAINED OPEN SPACE AND ROADSIDES IN THE AMOUNT OF \$17,525.00; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID CONTRACT; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, Colorado wishes to enter into a contract with Schneider & Sons, Inc. dba Weed Control Services, Inc. for herbicide applications ; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into such a contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That the contract between the Town of Erie and Schneider & Sons, Inc. dba Weed Control Services, Inc. is found to be a reasonable and acceptable contract for herbicide applications for Town owned and maintained open space and roadsides.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the contract for Herbicide Applications, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said contract in the amount of \$17,525.00.

Section 3. That entering into the Mosquito Control contract is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: CONSENT AGENDA
 Consideration of Resolution 14-32: A Resolution Accepting Colorado Discretionary Aviation Grant in the Amount of \$300,000; And, Setting Forth Details in Relation Thereto.

DEPARTMENT: Public Works

PRESENTER: Jason Hurd, Vector Air Management
 Russell Pennington, Deputy Director Public Works

FISCAL INFORMATION: Cost as Recommended: \$ 0
 Balance Available: \$ 0
 Budget Line Item
 Number: 000 . 00 . 000 . 000000 . 000000
 New Appropriation Required: Yes No

STAFF RECOMMENDATION: Approve Resolution 14-32, accepting Colorado Discretionary Aviation grant, authorizing the Town Administrator to sign the said agreement, and authorize Staff to expend grant money.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Colorado Division of Aeronautics makes matching funds available to Colorado communities to be utilized as matching funds for Federal Aviation Administration (FAA) projects (generally 90%FAA, 5%CDOA, 5%Town) or other maintenance projects (generally 90%CDOA, 10%Town).

In 2013, the Town applied for CDOA funds totaling \$300,000 for a new wind sock and segmented circle, and to purchase equipment. The equipment will include a snow plow, a sweeper, and a mower.

Below is a breakdown of the total estimated costs for each entity.

Project	FAA	CDOA	Town	Total
Snow Plow, Sweeper, & Mower	\$	\$ 240,000.00	\$ 26,667.00	\$ 266,667.00
Wind Sock and Segmented Circle	\$	\$ 60,000.00	\$ 6,667.00	\$ 66,667.00
Total	\$	\$ 300,000.00	\$ 33,334.00	\$ 333,334.00

Resolution 14-32 would accept the total grant offer, and designate the Director of Public Works, Gary Behlen, as the Project Director.

Board Goal

This serves the Board's goal for Infrastructure – Fund and provide essential infrastructure that corresponds with the planned rate of growth.

Staff Review:

____ Town Attorney
 ____ Town Clerk
 ____ Community Development Director
 ____ Finance Director
 ____ Police Chief
 Director of Public Works

Approved by:


 A.J. Krieger
 Town Administrator

ATTACHMENTS:

- a. Resolution 14-32
- b. CDOT Colorado Aeronautical Board Grant Agreement

RESOLUTION NO. 14-32

A RESOLUTION ACCEPTING A COLORADO DISCRETIONARY AVIATION GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION – DIVISION OF AERONAUTICS IN THE AMOUNT OF \$300,000.00; AND SETTING FOR THE DETAILS IN RELATION THERETO.

WHEREAS, The General Assembly of the State of Colorado declared in Title 43 of the Colorado revised Statutes, Article 10, 1991 in C.R.S. 43-10-101 (the Act) "...that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency ..." ; and

WHEREAS, The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE C.R.S. 43-10-103 and C.R.S. 43-10-105 and C.R.S. 43-10-108.5 of the Act; and

WHEREAS, any entity operating a public-accessible airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division's Grant Program Project Management Manual, revised 1999, ("the Manual").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section I. The Town of Erie, as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The Town of Erie states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

Each airport-operating entity that applies for and accepts a grant that it thereby makes a COMMITMENT

a) To keep the airport facility accessible to, and open to, the public during the entire useful life of the grant funded improvements/equipment; or b) to reimburse the Division for any unexpired useful life of the improvements/equipment, on a pro-rata basis.

By signing this grant agreement, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Agreement.

Section 2. That the Town of Erie hereby designates Russell Pennington as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application in its behalf, including executions of the grant contract.

Section 3. The Town of Erie has appropriated or will appropriate or otherwise make available in a timely manner all funds, if any, that are required to be provided by the Applicant under the terms and conditions of the grant contract.

Section 4. The Town of Erie hereby accepts all guidelines, procedures, standards and requirements described in the Manual as applicable to the performance of the grant work and hereby approves the grant contract submitted by the State, including all terms and conditions contained therein.

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE
a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, C.M.C., Town Clerk

STATE OF COLORADO
Colorado Department of Transportation
Colorado Aeronautical Board
Division of Aeronautics
Grant Agreement
with the
TOWN OF ERIE

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1. PARTIES

This Grant Agreement ("Grant") is entered into by and between TOWN OF ERIE ("Grantee"), and the STATE OF COLORADO acting by and through the Colorado Department of Transportation, Division of Aeronautics ("State", "Division" or "CDOT").

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee ("Effective Date"). Except as provided in Section 7(B)(v), the State shall not be liable to pay or

reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority to enter into this Grant exists in CRS §43-10-108.5 and funds have been budgeted, appropriated and otherwise made available pursuant to CRS §§39-27-112(2)(b), 43-10-109 and 43-10-102 and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

C. Purpose

The purpose of this Grant is to promote aviation for the betterment of the Colorado Aviation System.

D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Budget

“Budget” means the budget for the Work described in **Exhibit A**.

B. Evaluation

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in §6 and §19.

C. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Colorado Discretionary Aviation Grant Program Application) ...and... **Exhibit B** (Resolution in accordance with the General Assembly of the State of Colorado declared in CRS §43-10-101).

D. Goods

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

E. Grant

“Grant” means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

F. Grant Funds

“Grant Funds” means available funds payable by the State to Grantee pursuant to this Grant.

G. Local Funds

“Local Funds” provided by any city, county or other private entity to fund performance of the Work.

H. Manual

“Manual” refers to the Aviation Grant Management Manual as approved by the Colorado Aeronautical Board.

I. Party or Parties

“Party” means the State or Grantee and “Parties” means both the State and Grantee.

J. Program

“Program” means the Colorado Discretionary Aviation grant program that provides the funding for this Grant.

K. Review

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6, §19 and Exhibit A.

L. Services

“Services” means the required services to be performed by Grantee pursuant to this Grant.

M. Subgrantee

“Subgrantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

N. Work

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and Exhibit A, including the performance of the Services and delivery of the Goods. The Work is further described in the plans and specifications for the project as approved by the Federal Aviation Administration (“FAA”) or the Division.

O. Work Product

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM

A. Initial Term-Work Commencement

The Parties respective performances under this Grant shall commence on the Effective Date. This Grant shall terminate on 06/30/2016 unless sooner terminated or further extended as specified elsewhere herein.

6. STATEMENT OF WORK / CONTRACT OBJECTIVE PLAN

A. Brief Project Description:

Element A: Snow Plow, Sweeper, Mower

Element B: Wind Sock and Segmented Circle

B. Completion

Grantee shall complete the Work and its other obligations as described herein and in Exhibit A and in the plans and specifications for the project as approved by the FAA or Division on or before 06/30/2016.

The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

C. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State. Grantee is subject to its local procurement standards. If none exist, Grantee is subject to the general procurement standards of the State.

D. Employees

All persons employed by Grantee or Subgrantees shall be considered Grantee’s or Subgrantees’ employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is \$300,000.00 as determined by the State based on available funds.

The maximum amount payable under this Grant to Grantee by the State is 90% of the project cost not to exceed \$240,000.00 for Element A and 90% of the project cost not to exceed \$60,000.00 for Element B, as determined by the State from available funds in Fund 160, G/L account #4511000010, & Vendor# 0002000001 & Partner#N/A (if applicable), and Org. #VDG14-033. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit A**. The State and Grantee shall participate in providing the Grant amount as follows:

State:	\$300,000.00
Local Funds:	\$33,334.00
Federal:	\$0.00

B. Payment

i. Advance, Interim and Final Payments

Any advance payment allowed under this Grant, shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State. Grant Funds remaining following the completion and approval of the Work or the termination/expiration of the Grant will be returned to the State.

ii. Interest

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State. Uncontested amounts not paid by the State within 45 days may, if Grantee so requests, bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, the State may immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

v. Retroactive Payments

The State shall pay Grantee for costs or expenses incurred or performance by the Grantee prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules and regulations applicable to the Work provide for such retroactive payments to the Grantee. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or any Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

C Use of Funds

Grant Funds shall be used only for eligible costs identified herein and/or in **Exhibit A**. This shall be used solely for aviation purposes as defined in CRS §43-10-102(3) and this Grant shall not be used for the

subsidization of airlines. Misuse of Grant Funds, including subsidization for airlines, may result in immediate termination of this Grant for cause and forfeiture of any remaining Grant Funds.

D. Local Funds

Grantee shall provide Local Funds as provided in **Exhibit A**. Grantee shall have raised the full amount of Local Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request.

E. Payment Compliance

All Grant reimbursements shall comply with Title 49 Part 18 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Additionally, Grantee shall only be reimbursed for costs allowable under 2 CFR Part 125, Appendix A.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

A. Performance, Progress, Personnel, and Funds

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in the Manual.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of CDOT.

C. Noncompliance

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

D. Subgrants

Copies of any and all subgrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subgrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subgrants be governed by the laws of the State of Colorado.

9. GRANTEE RECORDS

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable

times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or in equity in lieu of or in conjunction with such corrective measures.

C. Monitoring

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

D. Final Audit Report

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, any State records, personnel records, and information concerning individuals. Such information shall not include information required to be disclosed pursuant to the Colorado Open Records Act, CRS §24-72-101 *et seq.*

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

B. Notification

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. To the extent permitted by law, the Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent

the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

13. INSURANCE

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee

i. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each Grant with Subgrantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Subgrantee's liabilities under the GIA.

ii. Non-Public Entities

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to Subgrantees that are not "public entities".

B. Grantee and Subgrantees

Grantee shall require each Grant with Subgrantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Subgrantee employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: **(a)** \$1,000,000 each occurrence; **(b)** \$1,000,000 general aggregate; **(c)** \$1,000,000 products and completed operations aggregate; and **(d)** \$50,000 any one fire.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

Grantee and the State shall be named as additional insured on the Commercial General Liability Insurance policy (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

Coverage required of Grantee and Subgrantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

vii. Subrogation Waiver

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Grantee and all Subgrantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Subgrantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any subgrant, Grantee and each Subgrantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued

with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Grantee is in breach under any provision of this Grant, the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B), provided however, that the State may terminate this Grant pursuant to §15(B) without a breach. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subgrants. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

iii. Payments

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

Todd Green
Division of Aeronautics

5126 Front Range Parkway
Watkins, CO 80137
todd.green@state.co.us

B. Grantee:

Gary Behlen
TOWN OF ERIE
PO Box 750
Erie, CO, 80516
gbehlen@erieco.gov

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works.

18. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the GIA. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the GIA and the risk management statutes, CRS §24-30-1501, *et seq.*, as amended.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by CDOT and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and

appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

20. GENERAL PROVISIONS

A. Assignment and Subgrants

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or Subgrantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

F. Indemnification-General

To the extent permitted by law, Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the GIA, or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended. If Grantee is a "public entity" within the meaning of GIA, liability is controlled and limited by the provisions of the GIA.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. Modification

i. By the Parties

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

ii. By Operation of Law

This Grant is subject to such modifications as may be required by changes in federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

I. Order of Precedence

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those

provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. **Colorado Special Provisions,**
- ii. **The provisions** of the main body of this Grant,
- iii. **Exhibit A,** and
- iv. **Exhibit B.**

J. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

K. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

L. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

M. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

N. Waiver

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

O. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

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21. COLORADO SPECIAL PROVISIONS

These Special Provisions apply to all Grants except where noted in italics.

A. CONTROLLER'S APPROVAL. CRS §24-30-202 (1)

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

B. FUND AVAILABILITY. CRS §24-30-202(5.5)

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 *et seq.*, or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 *et seq.*, as applicable now or hereafter amended.

D. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

G. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Grant or incorporated herein by reference shall be null and void.

H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4

[Not applicable to intergovernmental agreements]

Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, *et seq.*; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]

Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Grant and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant or enter into a grant with a Subgrantee that fails to certify to Grantee that the Subgrantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Subgrantee and the granting State agency within three days if Grantee has actual knowledge that a Subgrantee is employing or contracting with an illegal alien for work under this Grant, (c) shall terminate the subgrant if a Subgrantee does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 *et seq.*, the granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

L. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 *et seq.*, and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

SPs Effective 1/1/09

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

22. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

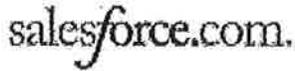
*** Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.**

GRANTEE TOWN OF ERIE	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Transportation Donald E. Hunt – Executive Director
By: _____ Print Name of Authorized Individual	By: David C. Gordon, Aeronautics Division Director
Title: _____ Print Title of Authorized Individual	Signatory avers to the State Controller or delegate that, except as specified herein, Grantee has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules
*Signature _____	Date: _____
Date: _____	

ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER Robert Jaros, CPA, MBA, JD
By: _____ Colorado Department of Transportation
Date: _____



- [Close Window](#)
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Application-5075

Grant Name	Application-5075	Owner	Russell Pennington
Grant Full Name	14-EIK-01	Status	Ready for Board Review
Account	Erie Municipal Airport	Contract Execution Date	
Account Identifier	EIK	Contract Expiration Date	6/30/2016
Manual Year	2,014	Diagrams	Yes
Project Director	Gary Behlen	Sponsor	Town of Erie
Project Director Address	PO Box 750 Erie, CO 80516	Sponsor SAP Vendor #	2000001
Project Director Email	gbehlen@eriteco.gov	Partner #	
Project Director Phone	(303) 926-2871	GL	4511000010
Project Definition	These projects will be prepared over the winter of 2013/2014. The wind sock and segmented circle project will be issued for bid in Spring 2014. The equipment will be acquired in the spring/summer of 2014.		

Account Information

Account Mailing Street	PO Box 750	Account Formula	Erie Municipal Airport
Account Mailing City	Erie	Record Type	Default
Account Mailing State	CO		
Account Mailing Zip Code	80516		

Grant Financials

State Funding	\$300,000.00	State Amount Remaining	\$300,000.00
Local Funding	\$33,334.00	Local Amount Remaining	\$33,334.00
Local/Other Funding	\$0.00	Local/Other Amount Remaining	\$0.00
Federal Funds	\$0.00	Federal Amount Remaining	\$0.00
Project Funding	\$333,334.00	Total Remaining	\$333,334.00

Summary

Allow Supplemental Grant Application

Amended?

Projected Engineering Costs \$33,333.40

Notes

Forecasting

Punch List

Application Is Complete Yes

Cost Estimates? Yes

Proposed Schedule? Yes

Recommended Action Approval

Additional Information

Grant Number 14-EIK-01

Cost Center VDG14-033

SRM PO

Shopping Cart # 700000192

PO

CMS Number 64637

Contract 14HAV64637

Grant Summary

Identify the existing problem

The Airport is in need of a new wind sock and segmented circle. The Airport is also in need of new equipment to replace old equipment and to acquire new equipment that they do not have currently.

Project Summary

New Wind Sock, New Segmented Circle and Equipment Purchase including a snow plow truck, sweeper and mower

Created By Russell Pennington, 10/31/2013 7:35 AM

Last Modified By Todd Green, 1/9/2014 1:06 PM

Grant Elements

Purchase Snow Plow, Sweeper and Mower

Status Submitted

State Percent 90.00

State \$240,000.00

Local \$26,667.00

Local (In-Kind)

Federal/Other \$0.00

Total \$266,667.00

Remaining State Balance \$240,000.00

Total Claims \$0.00

New Wind Sock and New Segmented Circle

Status Submitted

State Percent 90.00

State \$60,000.00

Local \$6,667.00
Local (In-Kind): \$0.00
Federal/Other: \$0.00
Total: \$66,667.00
Remaining State Balance: \$60,000.00
Total Claims: \$0.00

Notes & Attachments

EIK CIP ENG ESTIMATE-Sock and Circle.pdf

Type: Attachment
Last Modified: Russell Pennington
Description:
[View file](#)

EIK CIP-11.01.13.pdf

Type: Attachment
Last Modified: Russell Pennington
Description:
[View file](#)

ERIE 2013 CIP Exhibit Drawing.pdf

Type: Attachment
Last Modified: Russell Pennington
Description:
[View file](#)

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24. EXHIBIT B

RESOLUTION

WHEREAS:

The General Assembly of the State of Colorado declared in Title 43 of the Colorado revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any entity operating a public-accessible airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division's Aviation Grant Management Manual, revised 2009, ("the Manual").

NOW, THEREFORE, BE IT RESOLVED THAT:

The **TOWN OF ERIE**, as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The **TOWN OF ERIE** states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

Each airport-operating entity that applies for and accepts a grant that it thereby makes a **COMMITMENT** to keep the airport facility accessible to, and open to, the public during the entire useful life of the grant funded improvements/ equipment; or b) to reimburse the Division for any unexpired useful life of the improvements/ equipment, or a pro-rata basis.

By signing this grant agreement, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Agreement.

FURTHER BE IT RESOLVED:

That the **TOWN OF ERIE** hereby designates Gary Behlen as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application in its behalf, including executions of the grant contract and any amendments.

FURTHER:

The **TOWN OF ERIE** has appropriated or will appropriate or otherwise make available in a timely manner all funds, if any, that are required to be provided by the Applicant under the terms and conditions of the grant contract.

FINALLY:

The **TOWN OF ERIE** hereby accepts all guidelines, procedures, standards and requirements described in the Manual as applicable to the performance of the grant work and hereby approves the grant contract submitted by the State, including all terms and conditions contained therein.

for The Grantee

ATTEST

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **CONSENT AGENDA:**
Consideration of Ordinance 05-2014: An Ordinance Annexing The Andalusia Property, Pursuant To The Petition Of The Owner Thereof, To Be Known As The Andalusia Annexation To The Town Of Erie, Colorado, Providing For The Effective Date Of This Ordinance; And Setting Forth Details In Relation Thereto. Second Reading.

CODE: Erie Municipal Code, Title 10

DEPARTMENT: Community Development

PRESENTER: Todd Bjerkaas, Senior Planner

FISCAL	Cost as Recommended:	n/a
INFORMATION:	Balance Available:	n/a
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF
RECOMMENDATION: Approval of Ordinance 05-2014; an Ordinance Annexing the Andalusia property to the Town of Erie.

PLANNING
COMMISSION
RECOMMENDATION: Not applicable

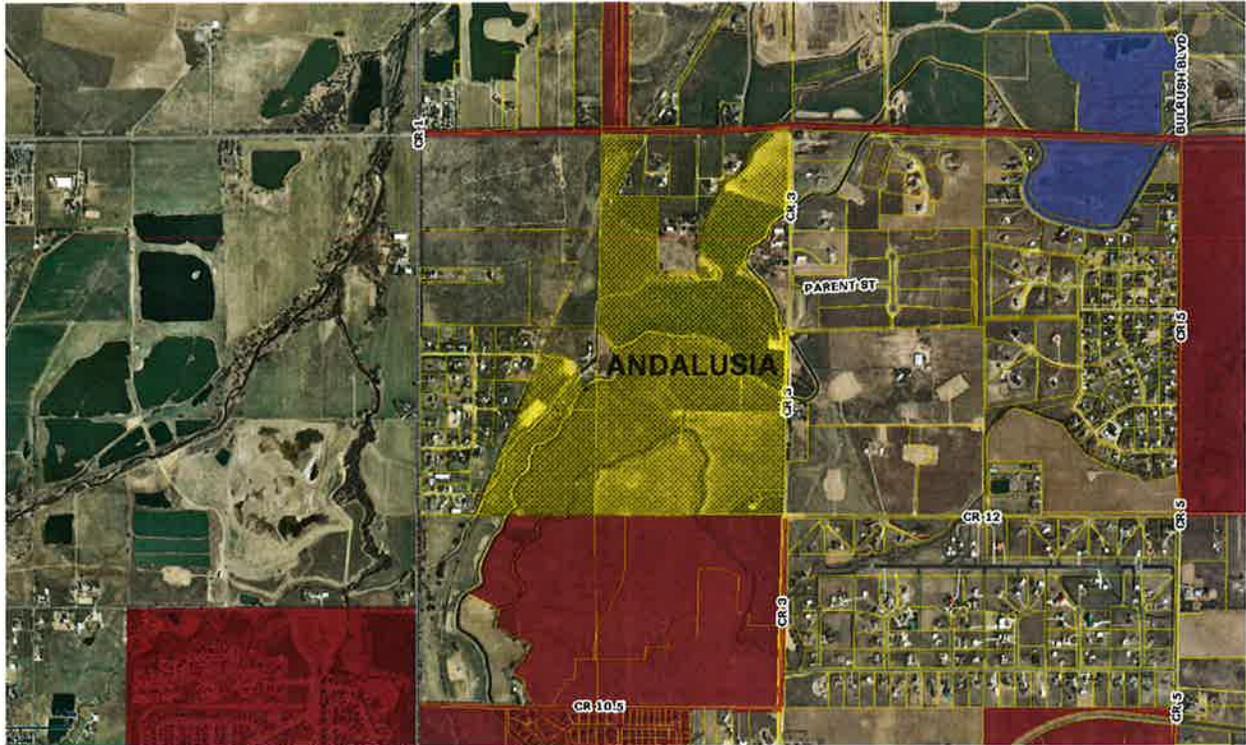
SUMMARY AND BACKGROUND OF SUBJECT MATTER:

GENERAL INFORMATION:

Land Owners: Saeed & Forough Moradi Family Trust, K.A.C. Holdings LLC, a Delaware limited liability company;
Mike & Shahla Moradi Trust;
Katina Moradi Trust;
Albert Moradi Trust;
Caroline Moradi Trust; and
I & J PARTNERSHIP, LLP, a California Limited liability partnership

**Applicant/
Representative:** Jerry Bouldin
3733 Florentine Circle
Longmont, CO 80503
(303) 881-4952

Location: The site is located at the southwest corner of State Highway 52 and Weld County Road (WCR) 3 and is generally described as a portion of Section 6, Township 1 North, Range 68 West of the 6th Principle Meridian. The site is highlighted in yellow below, the incorporated areas of the Town of Erie are shown in red and the incorporated areas of Frederick are shown in purple.



BACKGROUND INFORMATION:

Saeed & Forough Moradi Family Trust, K.A.C. Holdings LLC, a Delaware limited liability company; the Mike & Shahla Moradi Trust; the Katina Moradi Trust; the Albert Moradi Trust; the Caroline Moradi Trust; and I & J PARTNERSHIP, LLP, a California Limited liability partnership have submitted a Petition for Annexation of their 318.99 acre unincorporated Weld County property into the Town of Erie. The application has been processed in accordance with C.R.S. 31-12-101, et seq., as amended, and Section 7.15 of the Town of Erie Unified Development Code.

On December 10, 2013 the Board of Trustees held a Substantial Compliance hearing on the Andalusia Annexation Petition and established January 28, 2014 as the Public Hearing date for adopting Findings of Fact in favor of the proposed annexation.

Ordinance 05-2014 annexes the subject property.

- Existing Zoning:** A – Agricultural (Unincorporated Weld County)
- Existing Land Use:** Vacant land with agricultural and oil/gas operations
- Size:** 318.99 acres
- Proposed Zoning:** CC – Community Commercial
LR – Low Density Residential

Adjacent Zoning and Comprehensive Plan Land Use Designations:

	CURRENT ZONING	ERIE COMPREHENSIVE PLAN – LAND USE MAP DESIGNATION
NORTH	AG/OS – Agriculture/Open Space PLI – Public Lands & Institutions A – Agricultural (Unincorporated Weld County)	RR – Rural Residential CC – Community Commercial
SOUTH	SR – Suburban Residential LR – Low Density Residential	LDR – Low Density Residential
EAST	PUD – Planned Unit Development (Unincorporated Weld County) A – Agricultural (Unincorporated Weld County)	RR – Rural Residential CC – Community Commercial
WEST	R-1 – Low Density Residential (Unincorporated Weld County) A – Agricultural (Unincorporated Weld County)	RR – Rural Residential AG - Agriculture

STAFF ANALYSIS AND FINDINGS

Compliance with Town Standards:

Staff finds the application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-108.

1. THE ANNEXATION IS IN COMPLIANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965 (C.R.S. 31-12-101, ET SEQ., AS AMENDED).

Staff Comment: The application has been found to be in compliance with C.R.S. 31-12-101

Public Notice:

The Annexation is in compliance with the required noticing requirements of C.R.S. 31-12-108; with published notice in the Colorado Hometown Weekly, on December 18, 2013; December 25, 2013; January 1, 2014; and January 8, 2014.

Staff Recommendation:

Approval of Ordinance 05-2014: an Ordinance Annexing the Andalusia property to the Town of Erie.

Staff Review:

- ____ Town Attorney
- ____ Town Clerk
-  Community Development Director
- ____ Finance Director
- ____ Police Chief
- ____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- A. Ordinance 05-2014
- B. Application Materials
- C. Annexation Map
- D. Andalusia Annexation Agreement

ATTACHMENT A

ORDINANCE NO. 05-2014

Series of 2014

AN ORDINANCE ANNEXING THE ANDALUSIA PROPERTY, PURSUANT TO THE PETITION OF THE OWNERS THEREOF, TO BE KNOWN AS THE ANDALUSIA ANNEXATION TO THE TOWN OF ERIE, COLORADO; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, a Petition for Annexation (“Petition”) has been filed by Jerry Bouldin, the authorized agent of the property owners, dated August 16, 2013, 3733 Florentine Circle, Longmont, CO 80503, for the annexation to the Town of the following described real property (“Property”); to wit:

See “Exhibit A,” attached hereto and incorporated herein by this reference.

WHEREAS, a public hearing was held on said Petition pursuant to statute on January 28, 2014; and

WHEREAS, the Board of Trustees by Resolution determined that the applicable parts of C.R.S. 31-12-104 and 31-12-105 have been met, that an election is not required under C.R.S. 31-12-107(2), and that no additional terms and conditions are to be imposed; and

WHEREAS, it is the opinion of the Board of Trustees that it is desirable and necessary that the described Property be annexed to the Town of Erie, Colorado, and that such a project is necessary for the preservation of the public property, health, safety, and welfare of the Town and for the financial wellbeing of the Town; and

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Erie, Colorado; that;

Section 1. The above described Property is hereby annexed to and included within the town limits of the Town of Erie.

Section 2. The proposed annexation is consistent with the Town of Erie Three Mile Annexation Plan.

Section 3. The Annexation Agreement to be entered into with Saeed & Forough Moradi Family Trust, K.A.C. Holdings LLC, a Delaware limited liability company; Mike & Shahla Moradi Trust; Katina Moradi Trust; Albert Moradi Trust; Caroline Moradi Trust; and I & J PARTNERSHIP, LLP, a California Limited liability partnership, and is hereby adopted and approved and the Mayor is hereby directed and authorized to sign and bind the Town to said Annexation Agreement.

Section 4. The Mayor and Town Clerk are authorized and directed to complete all the necessary procedures and sign all necessary documents required for annexation of said Property to the Town including filing the required certified copies of the annexation ordinance and a map of the area to be annexed containing a legal description of such area with the Weld County Clerk and Recorder.

Section 5. Zoning of the Property. Requested zoning for the property is 'CC' – Community Commercial and LR – Low Density Residential. Zoning shall be accomplished by separate ordinance whose effective date shall not be sooner than the effective date of this annexation ordinance.

Section 6. Severance Clause. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 7. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed. The repeal established herein shall not be construed to revive any ordinance Code provision or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 8. Effective Date. This ordinance shall take effect thirty (30) days after publication following final passage.

INTRODUCED, PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS 11TH DAY OF FEBRUARY, 2014.

PUBLISHED IN FULL ON THE _____ DAY OF _____, 2014.

**TOWN OF ERIE, COLORADO, a
Colorado municipal corporation**

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, Town Clerk

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 6 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6 TO BEAR SOUTH 89°42'30" WEST, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION;

THENCE N89°54'46"W, A DISTANCE OF 30.01 FEET;
THENCE N00°59'09"E, A DISTANCE OF 335.99 FEET;
THENCE S89°42'05"W, A DISTANCE OF 389.95 FEET;
THENCE S51°32'39"W, A DISTANCE OF 543.53 FEET;
THENCE S89°42'30"W, A DISTANCE OF 1787.55 FEET;
THENCE S89°49'40"W, A DISTANCE OF 1647.93 FEET;
THENCE N22°39'51"E, A DISTANCE OF 2365.48 FEET;
THENCE N67°22'22"W, A DISTANCE OF 50.05 FEET;
THENCE N22°40'04"E, A DISTANCE OF 59.87 FEET;
THENCE S67°25'35"E, A DISTANCE OF 50.09 FEET;
THENCE S80°15'43"E, A DISTANCE OF 443.26 FEET;
THENCE S23°04'58"E, A DISTANCE OF 153.98 FEET;
THENCE S00°15'02"E, A DISTANCE OF 124.61 FEET;
THENCE S33°25'39"E, A DISTANCE OF 134.89 FEET;
THENCE N57°52'44"E, A DISTANCE OF 139.18 FEET;
THENCE N64°36'06"E, A DISTANCE OF 57.25 FEET;
THENCE S00°51'58"W, A DISTANCE OF 24.35 FEET;
THENCE N79°47'10"E, A DISTANCE OF 47.75 FEET;
THENCE S81°35'50"E, A DISTANCE OF 136.58 FEET;
THENCE N58°49'25"E, A DISTANCE OF 77.11 FEET;
THENCE N30°51'40"E, A DISTANCE OF 131.96 FEET;
THENCE N04°53'43"W, A DISTANCE OF 73.50 FEET;
THENCE N27°55'30"W, A DISTANCE OF 195.02 FEET;
THENCE N03°00'50"E, A DISTANCE OF 42.18 FEET;
THENCE N46°57'59"E, A DISTANCE OF 37.17 FEET;
THENCE N39°21'34"W, A DISTANCE OF 372.64 FEET;
THENCE N00°53'13"E, A DISTANCE OF 1353.95 FEET;
THENCE N00°52'37"E, A DISTANCE OF 1316.75 FEET;
THENCE N88°48'32"E, A DISTANCE OF 480.96 FEET;
THENCE N89°25'02"E, A DISTANCE OF 94.16 FEET;
THENCE S17°59'27"W, A DISTANCE OF 218.48 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 6721.00 FEET AND AN ARC LENGTH OF 726.73 FEET, THROUGH A CENTRAL ANGLE OF 06°11'43" AND A CHORD BEARING OF S26°55'51"W AND A CHORD LENGTH OF 726.38 FEET;

THENCE N89°32'00"E, A DISTANCE OF 610.38 FEET;
THENCE S01°00'46"W, A DISTANCE OF 1019.39 FEET;
THENCE S85°34'36"E, A DISTANCE OF 518.97 FEET;
THENCE N00°57'20"E, A DISTANCE OF 431.19 FEET;
THENCE S88°59'54"E, A DISTANCE OF 44.61 FEET;

THENCE N11°58'59"E, A DISTANCE OF 320.20 FEET;
THENCE N26°06'51"E, A DISTANCE OF 358.61 FEET;
THENCE N26°40'48"E, A DISTANCE OF 243.07 FEET;
THENCE N50°28'33"E, A DISTANCE OF 84.11 FEET;
THENCE N70°51'16"E, A DISTANCE OF 60.24 FEET;
THENCE N52°54'59"E, A DISTANCE OF 83.66 FEET;
THENCE N36°35'20"E, A DISTANCE OF 232.55 FEET;
THENCE N25°26'18"E, A DISTANCE OF 132.78 FEET;
THENCE N42°56'20"E, A DISTANCE OF 81.73 FEET;
THENCE N47°41'42"E, A DISTANCE OF 281.91 FEET;
THENCE N84°49'01"E, A DISTANCE OF 51.12 FEET;
THENCE N85°28'32"E, A DISTANCE OF 191.10 FEET;
THENCE S44°00'58"E, A DISTANCE OF 70.70 FEET;
THENCE S89°00'58"E, A DISTANCE OF 28.51 FEET;
THENCE S88°56'50"E, A DISTANCE OF 30.00 FEET;
THENCE S01°03'10"W, A DISTANCE OF 1363.28 FEET;
THENCE S01°02'46"W, A DISTANCE OF 1385.88 FEET;
THENCE S00°59'09"W, A DISTANCE OF 2537.09 FEET;
THENCE N89°54'46"W, A DISTANCE OF 30.00 FEET;

CONTAINING 14,354,337 SQUARE FEET OR 329.53 ACRES MORE OR LESS.

AND EXCLUDING LOT A RE-1516 UNDER RECEPTION NUMBER 2611753 MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6 THENCE N70°28'41" W, A DISTANCE OF 31.63 FEET TO THE POINT OF BEGINNING;

THENCE N31°50'47"W, A DISTANCE OF 194.22 FEET;
THENCE N07°11'03"E, A DISTANCE OF 98.77 FEET;
THENCE N08°56'04"W, A DISTANCE OF 50.00 FEET;
THENCE N26°39'46"W, A DISTANCE OF 322.56 FEET;
THENCE N42°36'21"W, A DISTANCE OF 446.86 FEET;
THENCE N09°03'16"W, A DISTANCE OF 51.67 FEET;
THENCE N15°44'24"E, A DISTANCE OF 139.99 FEET;
THENCE N38°34'05"E, A DISTANCE OF 70.07 FEET;
THENCE N60°12'47"E, A DISTANCE OF 170.91 FEET;
THENCE N41°33'42"E, A DISTANCE OF 79.21 FEET;
THENCE N19°07'05"E, A DISTANCE OF 137.44 FEET;
THENCE N36°35'52"E, A DISTANCE OF 75.58 FEET;
THENCE N56°40'33"E, A DISTANCE OF 252.15 FEET;
THENCE S01°02'50"W, A DISTANCE OF 1643.58 FEET TO THE POINT OF BEGINNING;

CONTAINING 459,230 SQUARE FEET OR 10.54 ACRES MORE OR LESS.

CONTAINING NET A TOTAL AREA OF 13,895,107 SQUARE FEET OR 318.988 ACRES MORE OR LESS.

ATTACHMENT B



TOWN OF ERIE

Community Development Department – Planning Division
645 Holbrook Street – PO Box 750 – Erie, CO 80516
Tel: 303.926.2770 – Fax: 303.926.2706 – Web: www.erieco.gov

LAND USE APPLICATION

Please fill in this form completely. Incomplete applications will not be processed.

STAFF USE ONLY

FILE NAME:

FILE NO:

DATE SUBMITTED:

FEES PAID:

PROJECT/BUSINESS NAME: ANDALUSIA

PROJECT ADDRESS: WEST OF WCR 3 & SO. OF STATE HWY. 52 & NO. OF WCR 12 ALIGNMENT

PROJECT DESCRIPTION: ANNEXATION & ZONING TO LR & CC TO ALLOW DEVELOPMENT OF A MAX. OF 632 RESIDENTIAL UNITS IN A VARIETY OF LOT SIZES AND ASSOCIATED OPEN SPACE, PARK, AND TRAILS USES, A SCHOOL SITE, AND A COMMUNITY COMMERCIAL AREA

LEGAL DESCRIPTION (attach legal description if Metes & Bounds)

Subdivision Name:

SEE ATTACHED EXHIBIT 'A'

Filing #: _____ Lot #: _____ Block #: _____ Section: S ½ & E ½ 6 Township: 1 N Range: 68 W

OWNER (attach separate sheets if multiple)

AUTHORIZED REPRESENTATIVE

Name/Company: MIKE MORADI ETAL & I & J PARTNERSHIP, LP

Company: KIRBY SMITH & ASSOC. INC.

Contact Person: c/o JERRY BOULDIN

Contact Person: KIRBY SMITH

Address: 3733 FLORENTINE CIRCLE

Address: 6201 SO. HUDSON CT.

City/State/Zip: LONGMONT, CO 80503

City/State/Zip: CENTENNIAL, CO 80121

Phone: 303-881-4952 Fax: 303-485-1017

Phone: 303-694-9484 Fax: 303-694-9272

E-mail: JSBOU76@AOL.COM

E-mail: KSAKIRBY@AOL.COM

MINERAL RIGHTS OWNER (attach separate sheets if multiple)

MINERAL LEASE HOLDER (attach separate sheets if multiple)

Name/Company: SEE ATTACHED EXHIBIT 'B'

Company: SEE ATTACHED EXHIBIT 'B'

Address: _____

Address: _____

City/State/Zip: _____

City/State/Zip: _____

LAND-USE & SUMMARY INFORMATION

Present Zoning: WELD CO. 'A' AGRICULTURE

Gross Site Density (du/ac): 1.99 DU/AC.

Proposed Zoning: 'LR' LOW DENSITY RES., 'PLI' PUB. LAND & INST. & 'CC' COMMUNITY COMM.

Lots/Units Proposed: 632 MAX.

Gross Acreage: 316.19

Gross Floor Area: 120,000 S.F.

SERVICE PROVIDERS

Electric: XCEL ENERGY

Gas: SOURCE GAS

Metro District: T.B.D.

Fire District: MOUNTAIN VIEW

Water (if other than Town): _____

Sewer (if other than Town): _____

PAGE TWO MUST BE SIGNED AND NOTARIZED

DEVELOPMENT REVIEW FEES

ANNEXATION		SUBDIVISION	
<input checked="" type="checkbox"/> Major	\$ 4000.00	<input type="checkbox"/> Sketch Plan	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor	\$ 2000.00	<input type="checkbox"/> Preliminary Plat	\$ 2000.00 + 40.00 per lot
<input type="checkbox"/> Deannexation	\$ 1000.00	<input type="checkbox"/> Final Plat	\$ 2000.00 + 20.00 per lot
COMPREHENSIVE PLAN AMENDMENT		<input type="checkbox"/> Minor Subdivision Plat	\$ 2000.00
<input type="checkbox"/> Major	\$ 3000.00	<input type="checkbox"/> Minor Amendment Plat	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor	\$ 1200.00	<input type="checkbox"/> Road Vacation	\$ 1000.00
ZONING/REZONING		<input type="checkbox"/> Road Vacation	\$ 1000.00
<input checked="" type="checkbox"/> Rezoning	\$ 1700.00 + 10.00/ac.	SITE PLAN	
<input type="checkbox"/> PUD Rezoning	\$ 1700.00 + 10.00/ac.	<input type="checkbox"/> Residential	\$ 1400.00 + 10.00 per unit
<input type="checkbox"/> PUD Amendment	\$ 1700.00 + 10.00/ac.	<input type="checkbox"/> Non-Resi. (>10,000 sq. ft.)	\$ 2200.00
<input type="checkbox"/> Major PD Amendment	\$ 1700.00 + 10.00/ac.	<input type="checkbox"/> Non-Resi. (>2,000 sq. ft.)	\$ 1000.00
<input type="checkbox"/> Minor PD Amendment	\$ 500.00	<input type="checkbox"/> Non-Resi. (<2,000 sq. ft.)	\$ 200.00
SPECIAL REVIEW USE		<input type="checkbox"/> Amendment (major)	\$ 1100.00
<input type="checkbox"/> Major	\$ 1000.00	<input type="checkbox"/> Amendment (minor)	\$ 350.00
<input type="checkbox"/> Minor	\$ 400.00	VARIANCE \$ 600.00	
<input type="checkbox"/> Oil & Gas	\$ 1200.00	SERVICE PLAN \$10,000.00	

All fees **include** both Town of Erie Planning & Engineering review. These fees **do not include** referral agency review fees, outside consultant review fees, or review fees incurred by consultants acting on behalf of staff. See Town of Erie Municipal Code, Title 2-10-5, COMMUNITY DEVELOPMENT FEES.

The undersigned is fully aware of the request/proposal being made and the actions being initiated on the referenced property. The undersigned understand that the application must be found to be complete by the Town of Erie before the request can officially be accepted and the development review process initiated. The undersigned is aware that the applicant is fully responsible for all reasonable costs associated with the review of the application/request being made to the Town of Erie. Pursuant to Chapter 7 (Section 7.2.B.5) of the Unified Development Code (UDC) of the Town of Erie, applicants shall pay all costs billed by the Town for legal, engineering and planning costs incurred by staff, including consultants acting on behalf of staff, necessary for project review. By this acknowledgement, the undersigned hereby certify that the above information is true and correct.

Owner: Jerry Bouldin Date: 8-13-13
 Owner: _____ Date: _____
 Applicant: Jerry Bouldin Date: 8-13-13

STATE OF COLORADO)
 County of Boulder) ss.

The foregoing instrument was acknowledged before me this 13th day of August, 2013, by Leon Jerry Bouldin AKA Jerry Bouldin

My commission expires: July 2, 2017
 Witness my hand and official seal.

Maureen C. Simpson
 Notary Public

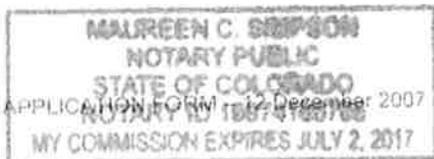


Exhibit 'A'

Andalusia Annexation

Legal Description

A PARCEL OF LAND SITUATED IN SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 6 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6 TO BEAR SOUTH 89°42'30" WEST, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION;

THENCE N89°54'46"W, A DISTANCE OF 30.01 FEET;
THENCE N00°59'09"E, A DISTANCE OF 335.99 FEET;
THENCE S89°42'05"W, A DISTANCE OF 389.95 FEET;
THENCE S51°32'39"W, A DISTANCE OF 543.53 FEET;
THENCE S89°42'30"W, A DISTANCE OF 1787.55 FEET;
THENCE S89°49'40"W, A DISTANCE OF 1647.93 FEET;
THENCE N22°39'51"E, A DISTANCE OF 2365.48 FEET;
THENCE N67°22'22"W, A DISTANCE OF 50.05 FEET;
THENCE N22°40'04"E, A DISTANCE OF 59.87 FEET;
THENCE S67°25'35"E, A DISTANCE OF 50.09 FEET;
THENCE S80°15'43"E, A DISTANCE OF 443.26 FEET;
THENCE S23°04'58"E, A DISTANCE OF 153.98 FEET;
THENCE S00°15'02"E, A DISTANCE OF 124.61 FEET;
THENCE S33°25'39"E, A DISTANCE OF 134.89 FEET;
THENCE N57°52'44"E, A DISTANCE OF 139.18 FEET;
THENCE N64°36'06"E, A DISTANCE OF 57.25 FEET;
THENCE S00°51'58"W, A DISTANCE OF 24.35 FEET;
THENCE N79°47'10"E, A DISTANCE OF 47.75 FEET;
THENCE S81°35'50"E, A DISTANCE OF 136.58 FEET;
THENCE N58°49'25"E, A DISTANCE OF 77.11 FEET;
THENCE N30°51'40"E, A DISTANCE OF 131.96 FEET;
THENCE N04°53'43"W, A DISTANCE OF 73.50 FEET;
THENCE N27°55'30"W, A DISTANCE OF 195.02 FEET;
THENCE N03°00'50"E, A DISTANCE OF 42.18 FEET;
THENCE N46°57'59"E, A DISTANCE OF 37.17 FEET;
THENCE N39°21'34"W, A DISTANCE OF 372.64 FEET;
THENCE N00°53'13"E, A DISTANCE OF 1353.95 FEET;
THENCE N00°52'37"E, A DISTANCE OF 1316.75 FEET;
THENCE N88°48'32"E, A DISTANCE OF 480.96 FEET;
THENCE N89°25'02"E, A DISTANCE OF 94.16 FEET;
THENCE S17°59'27"W, A DISTANCE OF 218.48 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 6721.00 FEET AND AN ARC LENGTH OF 726.73 FEET, THROUGH A CENTRAL ANGLE OF 06°11'43" AND A CHORD BEARING OF S26°55'51"W AND A CHORD LENGTH OF 726.38 FEET;

THENCE N89°32'00"E, A DISTANCE OF 610.38 FEET;
THENCE S01°00'46"W, A DISTANCE OF 1019.39 FEET;
THENCE S85°34'36"E, A DISTANCE OF 518.97 FEET;
THENCE N00°57'20"E, A DISTANCE OF 431.19 FEET;
THENCE S88°59'54"E, A DISTANCE OF 44.61 FEET;
THENCE N11°58'59"E, A DISTANCE OF 320.20 FEET;
THENCE N26°06'51"E, A DISTANCE OF 358.61 FEET;
THENCE N26°40'48"E, A DISTANCE OF 243.07 FEET;
THENCE N50°28'33"E, A DISTANCE OF 84.11 FEET;
THENCE N70°51'16"E, A DISTANCE OF 60.24 FEET;
THENCE N52°54'59"E, A DISTANCE OF 83.66 FEET;
THENCE N36°35'20"E, A DISTANCE OF 232.55 FEET;
THENCE N25°26'18"E, A DISTANCE OF 132.78 FEET;
THENCE N42°56'20"E, A DISTANCE OF 81.73 FEET;

THENCE N47°41'42"E, A DISTANCE OF 281.91 FEET;
THENCE N84°49'01"E, A DISTANCE OF 51.12 FEET;
THENCE N85°28'32"E, A DISTANCE OF 191.10 FEET;
THENCE S44°00'58"E, A DISTANCE OF 70.70 FEET;
THENCE S89°00'58"E, A DISTANCE OF 28.51 FEET;
THENCE S88°56'50"E, A DISTANCE OF 30.00 FEET;
THENCE S01°03'10"W, A DISTANCE OF 1363.28 FEET;
THENCE S01°02'46"W, A DISTANCE OF 1385.88 FEET;
THENCE S00°59'09"W, A DISTANCE OF 2537.09 FEET;
THENCE N89°54'46"W, A DISTANCE OF 30.00 FEET;

CONTAINING 14,354,337 SQUARE FEET OR 329.53 ACRES MORE OR LESS.

AND EXCLUDING LOT A RE-1516 UNDER RECEPTION NUMBER 2611753 MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6 THENCE N70°28'41" W, A DISTANCE OF 31.63 FEET TO THE POINT OF BEGINNING;

THENCE N31°50'47"W, A DISTANCE OF 194.22 FEET;
THENCE N07°11'03"E, A DISTANCE OF 98.77 FEET;
THENCE N08°56'04"W, A DISTANCE OF 50.00 FEET;
THENCE N26°39'46"W, A DISTANCE OF 322.56 FEET;
THENCE N42°36'21"W, A DISTANCE OF 446.86 FEET;
THENCE N09°03'16"W, A DISTANCE OF 51.67 FEET;
THENCE N15°44'24"E, A DISTANCE OF 139.99 FEET;
THENCE N38°34'05"E, A DISTANCE OF 70.07 FEET;
THENCE N60°12'47"E, A DISTANCE OF 170.91 FEET;
THENCE N41°33'42"E, A DISTANCE OF 79.21 FEET;
THENCE N19°07'05"E, A DISTANCE OF 137.44 FEET;
THENCE N36°35'52"E, A DISTANCE OF 75.58 FEET;
THENCE N56°40'33"E, A DISTANCE OF 252.15 FEET;
THENCE S01°02'50"W, A DISTANCE OF 1643.58 FEET TO THE POINT OF BEGINNING;

CONTAINING 459,230 SQUARE FEET OR 10.54 ACRES MORE OR LESS.

CONTAINING NET A TOTAL AREA OF 13,895,107 SQUARE FEET OR 318.988 ACRES MORE OR LESS.

Exhibit 'B'

Andalusia

Mineral Owners

None (entitled to notice)

Mineral Leasehold Owners

EnCana Oil & Gas (USA) Inc.
Attn: DJ Land Department
370 17th Street, Suite 1700
Denver, CO 80202

K.P. Kauffman Company, Inc. (KPK)
1675 Broadway, Suite 2800
Denver, CO 80202

Kerr-McGee Oil & Gas Onshore LP
Attn: Land Manager/Wattenberg
1099 18th Street, #1500
Denver, CO 80202



Kirby Smith & Associates, Inc.

August 19, 2013
Revised December 5, 2013

Town of Erie Board of Trustees
645 Holbrook Street
Erie, CO 80516

Re: Letter of Interest - For The Andalusia – Annexation

Dear Members of the Board,

On behalf of the owners of the Andalusia property we hereby request to annex 318.98 acres into the Town of Erie and zone the property from Weld County Agricultural 'A', to Town of Erie Low Density Residential 'LR' and Community Commercial 'CC'. After receiving approval of annexation and zoning the property will be subdivided through the Preliminary and Final Plat processes. If all goes well, it is anticipated that lot sales could commence in 2015.

The property is located immediately west of WCR 3 and south of State Highway 52. This property consists of land that has been farmed for many years. The property's highest points occur along the southern property line paralleling the adjacent Cottonwood Extension Ditch, and the remainder of the land slopes away gently in three directions from there, but primarily to the north and west. Three irrigation canals meander across the property (the Cottonwood Extension Ditch, the Lower Boulder Ditch, and the Boulder And Weld County Ditch), generally following the contours of the land. The primary natural drainage for this area bisects the property from southeast to northwest, across the northern portion of the property.

Primary access to the property is proposed to be provided by three full movement local street intersections from Weld County Road 3 on the eastern portion of the site, and one access from State Highway 52. An additional right-in-right-out access point is also proposed for the commercial area. Internal residential circulation will consist of public local streets. The development is proposed to consist of a maximum of 632 residential dwelling units (including one housing type and two housing type variations), at an overall gross density of 1.99 DU/Ac., and 8.4 acres of community commercial uses at the corner of St. Highway 52 and WCR 3. These proposed land uses are in compliance with the Town's Comprehensive Plan. The requested zoning would allow for development of a high quality residential community, including a total of 142.55 acres (45.0%) for park and open space uses. In addition, a 10 acre elementary school site has been identified for dedication to the Saint Vrain School District. The Town's open space requirements are to be met with several large open space areas and a contiguous open space corridor for the Town of Erie's regional Spine Trail along the western portion of the property. Park dedication requirements are to be met with a combination of land dedications (for a Neighborhood Park and various Pocket Parks along the proposed internal open space corridors) and cash-in-lieu (for Community parks). Within the common open space areas the developer proposes to construct multi-use trails to connect to adjacent properties to the west, south, east and north. Including a portion of the regional trail system (Spine Trail) called for in the Erie Comprehensive Plan.

We feel that this proposed annexation and development will be an asset to the Town of Erie and we look forward to working with the Town's staff and officials to create a diverse well designed neighborhood and supporting commercial uses that will complement the Town's community framework.

Sincerely,

Kirby Smith

ANDALUSIA

Development Proposal Overview Narrative

The narrative that follows contains general development information and describes the existing site conditions and the proposed development for the Andalusia property.

Owners/Applicant/Representative:

Owners/Applicant: Mike Moradi, et al, and
I & J Partnership LP
c/o Jerry Bouldin, Authorized Representative
3733 Florentine Circle
Longmont, CO 80503

Representative: Kirby Smith & Associates, Inc., Mr. Kirby Smith -303-694-9484
6201 So. Hudson Ct.
Centennial, CO 80121

Proposed Development Overview:

1. The General concept of the development, land uses, character, and zoning. - The subject property includes 316.19 acres of vacant agricultural land with three irrigation ditches crossing the site. The property is zoned "A" Agricultural, in Weld County. Primary access to the property is proposed to be provided by three full movement local street intersections from Weld County Road 3 on the eastern portion of the subject site and one from St. Highway 52 near the northwest corner of the property. An additional right-in-right-out access point is also proposed for the commercial area in the northeast corner of the property. Primary internal circulation for the residential areas will consist of public local streets (and possibly private alleys in select areas). The Conceptual Sketch Plan proposes 149.22 acres for residential uses (including one housing types and two housing type variations), and 8.4 acres for commercial uses. Initial zoning is proposed as Low Density Residential (LR), at an overall gross density of 1.99 DU/Ac. and Community Commercial. These proposed land uses are in compliance with the Town's Comprehensive Plan. The requested zoning would allow for development of a high quality residential community, including a diverse mix of single family detached lifestyle opportunities. The Conceptual Sketch Plan includes approximately 48 custom home terraced lots of 10,600 to 14,600 sf +; 80 single family lots of 9,000 to 9,2000 sf; 200 proposed 7,800 to 8,000 sf lots; 72 patio homes on 7,000 to 7,200 sf lots; 107 single family homes on 6,300 to 6,600 sf lots; as well as 68 residential lots of 4,500 to 5,000 sf.. In addition 8.4 acres of supporting community commercial uses are proposed along St. Highway 52. The commercial areas are envisioned to allow for various supporting service uses for the nearby residents and those traveling along St. Highway 52. Such businesses may include, but not be limited to, various retail commercial uses, or professional service office uses. The only existing buildings on this property are the small storage or temporary structures associated with oil and gas facilities. Dependent upon required approval processing, development could commence in early 2015, with lot sales commencing later that year. Development and build-out is estimated to occur in approximately 6 phases and be completed with in six to seven years.

2. The approximate size and type of any common open space and semi-public uses, including parks, recreation areas, school sites and similar uses. - The Conceptual Sketch Plan proposes to provide a total of 142.55 acres (45.0%) for park and open space uses. In addition, a 10 acre elementary school site (as indicated in the Town's Comp Plan) has been identified for dedication to the Saint Vrain School District. The Town's open space dedication requirement of 29.98 acres is proposed to be met with 44.40 acres consisting of the unencumbered portions of the open space areas along the western portion of the property, including trail corridors which will provide a contiguous route for the Town's regional "spine trail" from the property's south property line to Hwy 52. Park dedication requirements are proposed to be met with a combination of land dedications (7.5 acres or more of Pocket Park - playground or other type of amenity along the proposed open space corridors - 0.88 acres required, and 7.0 acres of neighborhood park - 5.29 acres required) and cash-in-lieu payment, with credit for excess

neighborhood park dedication (1.71 ac.) applied to the Community park requirement (8.82 ac.). Within the various park and common open space areas the developer proposes to construct multi-use trails to connect to adjacent properties to the west, south, east and north. This includes a portion of the regional “spine trail” system called for in the Erie Comprehensive Plan.

3. *The vehicular circulation system of local, collector and arterial streets.* – Vehicular access to the residential portions of this property is planned via three Local Residential street connections to Weld County Road 3, and one to St. Highway 52 in the northwest portion of the site. Most internal vehicular circulation within residential areas will consist of public streets, constructed to Town of Erie standards for Local Street cross sections, within a rights-of-ways of 60 feet. Private alleys may also be used to provide access to select residential areas. Vehicular access to the commercial area will share one full movement intersection at WCR 3 with the residential access and also proposes an additional right-in-right-out access point from WCR 3. Internal circulation within the commercial use area will be provided by private access drives.

4. *Source of public water and sewer systems* – Water and sewer service for the proposed development are proposed to be provided by the Town of Erie. Water service would entail connection of this property to the Town’s current water system. Current Town water system facilities exist within WCR 3 and Hwy 52. The intent would be to extend these water lines to the site to create a looped water system to service the project. Current Town sanitary sewer facilities include a trunk line extending northeasterly along the west property line of this site and extending to Erie’s treatment plant. The intent is to create a sanitary sewer system within the proposed development that will flow into the existing adjacent Town trunk line.

5. *How storm water drainage is to be handled on the site.* – Storm water will be managed according to the Town’s engineering standards. Detention ponds will be constructed, as necessary per Town standards, and water will be released at historic rates. A Phase I Drainage Report is included with this zoning application. A Preliminary Grading and Drainage Report to be prepared with the Preliminary Plat submittal.

6. *Unique natural features within the proposed development.* - This property consists of land that has been actively farmed for many years. The property’s highest points occur along the southern property line paralleling the adjacent Cottonwood Extension Ditch, and the remainder of the land slopes away gently in three directions from there, but primarily to the north and west. Three irrigation canals meander across the property (the Cottonwood Extension Ditch, the Lower Boulder Ditch, and the Boulder And Weld County Ditch), generally following the contours of the land. The primary natural drainage for this area bisects the property from southeast to northwest, across the northern portion of the property.

7. *Commercial mineral deposits and oil and gas facilities are located within the PUD* - Files with the Colorado Geologic Survey (CGS) indicate that this site is located within the Boulder/Weld Coal Field, however no known mine workings were referenced beneath the subject property. Oil and gas drilling windows have been identified and 20 existing oil and gas wells are currently in operation on the site as shown on the plan. Based on existing surface use agreements and previously directionally drilled wells the two unused drilling windows that remain on this site will not have any wells located in them in the future. Existing and proposed Oil and gas well setbacks have been shown at a radius of 150’ on this Sketch Plan, in compliance with the Town Code and Colorado Oil and Gas Commission Regulations, and will be in compliance with all Colorado Oil and Gas Commission Regulations. Mineral Owners are Mike Moradi, et al, and Olde Word Development, LLC; and Mineral Leasehold Owners include Kerr-McGee Rocky Mountain Corp., K.P. Kaufman Co., Inc. and EnCana Energy Resources, Inc.. Surface Use Agreements are currently in place with K.P. Kaufman, a Surface Use Agreement has been negotiated with EnCana and is currently being finalized, and we are in discussions with Kerr-McGee. We anticipate final surface use agreements prior to platting.

ANDALUSIA Assessment Impact Report

The following items are assessed to their impact on the Town of Erie's services.

Water

Current Town water system facilities exist within WCR3 and Highway 52. The intent would be to connect to these water lines to create a looped water system to service the project. The water demands generated by this development are as follows.

Domestic Water Design Criteria:

The domestic water demands were calculated in accordance with the *Town of Erie Standards and Specifications for Design Construction of Public Improvements*. The following criteria were used:

- A. Average daily flow is equal to 140 gallons per person per day for residential.
- B. Average daily flow for the Parks is 2232 GPO/Acre.
- C. Minimum residual pressure during maximum day demand plus fire flow is equal to 20 psi.
- D. Minimum residual pressure during the maximum day or peak hour demand is equal to 40 psi.
- E. Peak hour to average day ratio is 3.9:1 for residential and 6.0:1 for the parks.
- F. Maximum day to average day ratio is 2.6:1 for residential and 2.0:1 for commercial.
- G. For water mains, valves shall be placed no more than 600' apart.
- H. Fire Flow demands are as follows:
 - 1,000 gpm for 1 and 2 family units
 - 1,500 gpm for multi-family units
 - 2,500 gpm for commercial development

Domestic Water Demand

Unit Type	No. of Units (DU's or Acres)	People/ Units	Equiv. People	Avg Day Demand per Person/Acre (gdp)	Avg Day Demand (gdp)	Max Day Factor	Max Day Demand (gdp)
Res.	632	2.67	1687	140	236,242	2.6	614,228
Comm.	8.4	n/a	n/a	1,651	13,868	2.0	27,737
School	1	525	525	10	5250	2.0	10,500
Park	16.5	n/a	n/a	2,232	36,828	2.0	73,656

Sanitary Sewer

Sanitary sewer will tie into the Town's treatment plant interceptor along Andalusia's West property line. This development is proposing to connect to the Town of Erie's sanitary sewer system and demands generated by this development are as follows.

Sanitary Sewer Design Criteria:

The domestic sanitary sewer loading rates were calculated in accordance with the *Town of Erie Standards and Specifications for Design Construction of Public Improvements*. The following criteria were used:

- A. All pipe capacities are calculated using Manning's Equation (n=0.015).
- B. The minimum pipe size is 8-inch.
- C. To keep cleansing velocities above 2 feet per second (fps), the minimum pipe slopes are as follows: 8"-0.40%; 10"-0.28%; 12"- 0.22%.
- D. Depths of flow do not exceed 80 percent of full capacity.

E. All proposed residential unit flows are based on 2.67 occupants per household and 90 gallons per day per person.

F. Park (P) flows are based on 50 gallons/acre/day.

G. Peak flows are calculated using a maximum peaking factor of 5.

Sanitary Sewer Demand

Unit Type	No. of Units (DU's or Acres)	People/ Units	Equiv. People	Avg Flow Per Person/Acre (gdp)	Domestic Avg Daily Flow (gdp)	Peak Factor	Peak Flow (gdp)	Peak Design Flow (mgd)
Res.	632	2.67	1687	90	151,870	5	759,348	0.759
Comm.	8.4	n/a	n/a	1000	8,400	5	42,000	0.042
School	10.0	525	525	13	6,825	5	34,125	0.034
Park	16.5	n/a	n/a	50	825	5	4,125	0.004

Natural Gas

Natural gas is located in Weld County Road 3. This development proposes to be served by Source Gas. Gas demands generated by this development are as follows.

Gas Design Criteria:

The domestic gas loading rates were calculated in accordance with estimated values utilized for similar developments. It is estimated that each proposed unit will have a 100,000 btu furnace and a 40,000 btu water heater installed, resulting in a demand of 140,000 btu per unit. 632 units are equivalent to 88.5 million btu's for the residential portion of this development.

Electric

Electric is located along Weld County Road 3. United Power will serve the development and demand generated by this development is as follows.

Electric Design Criteria:

The domestic electric loading rates were calculated in accordance with estimated values utilized for the residential portion of similar developments. The following criteria were used:

An estimate of peak electric consumption is 6 Kv-a /unit. 632 units are equivalent to 3792 Kv-a.

Telephone

Telephone service is located along Weld County Road 3. The development is to be served by Century Link Communications.

Schools

The development is within the St. Vrain Valley School District. This development will generate the following number of students and land contribution requirements.

Elementary School:	122 students	2.32 acres
Middle School:	57 students	1.87 acres
High School:	<u>61 students</u>	<u>2.52 acres</u>
	240 students	6.71 acres

Streets

This development will adhere to the Town of Erie's street standards and will align its' streets with adjacent development's streets as appropriate. The Town will provide the maintenance of the streets within the development after construction to Town specifications and acceptance by the Board of Trustees.

Drainage

This development will adhere to the Town of Erie's drainage standards. See Drainage Report for further information.

Law Enforcement

Law enforcement is to be provided by the Town of Erie Police Department.

Fire Protection

The Mountain View Fire Protection District will serve this development. This development proposes to adhere to the Town of Erie's road standards enabling adequate access for the fire district. No special fire district needs are anticipated with this development.

Market Conditions

See Market Feasibility Study by The Genesis Group (under separate cover).

Market Segment - The Andalusia property is located in the Boulder County-Erie submarket which has historically been one of the stronger residential submarkets in the Denver Metro Area. Current and future trends point towards the continued strength in the general location where the property resides. Erie has experienced a steady rate of residential building activity. The most recent building permit data details that as of May 2013, builders within Weld County have pulled a total of 547 permits for single family detached homes. The permit total for 2013 is 135% ahead of 2012. As compared recent years, by the end of April 2013 Erie had issued 100 new permits to date compared to a total of 108 for all of 2011. Major projects such as Vista Ridge and Erie Commons have seen a steady stream of permits issued as these projects have continued to mature.

Andalusia, given its location and variety of lot sizes, is planned to be developed by builders who will build in several "move-up", production, semi-custom to custom home market segments. Other projects in the general vicinity that would be competition in the \$300,000 and above market include Cottonwood Vista, Candlelight Ridge and portions of Vista Ridge. All of these projects are currently developed and are delivering product to the market. By the time Andalusia commences home sales, it is anticipated that these projects will be built-out, or nearly so, leaving less competition for the targeted market segments in near downtown Erie. The proposed commercial area is well located long St. Hwy. 52. Based upon existing and proposed residential development in the surrounding area, in conjunction with the ever increasing pass-by traffic along Hwy. 52 and WCR 3, as well as the lack of competing commercial uses within several miles will make these commercial sites highly desirable.

Conclusion – Andalusia is in a highly desirable location, is easily accessible and is within a highly regarded school district. The property will provide three housing types, and three different housing type variations within several targeted "move-up" markets. Andalusia will be a unique development within Erie as depicted by its location, theme and character. Demand for the types of housing products proposed within Andalusia is expected to remain strong over the long term. As long as favorable market conditions exist, Andalusia is expected to maintain a strong residential absorption rate and support and sustain various commercial uses.

Economic Impact

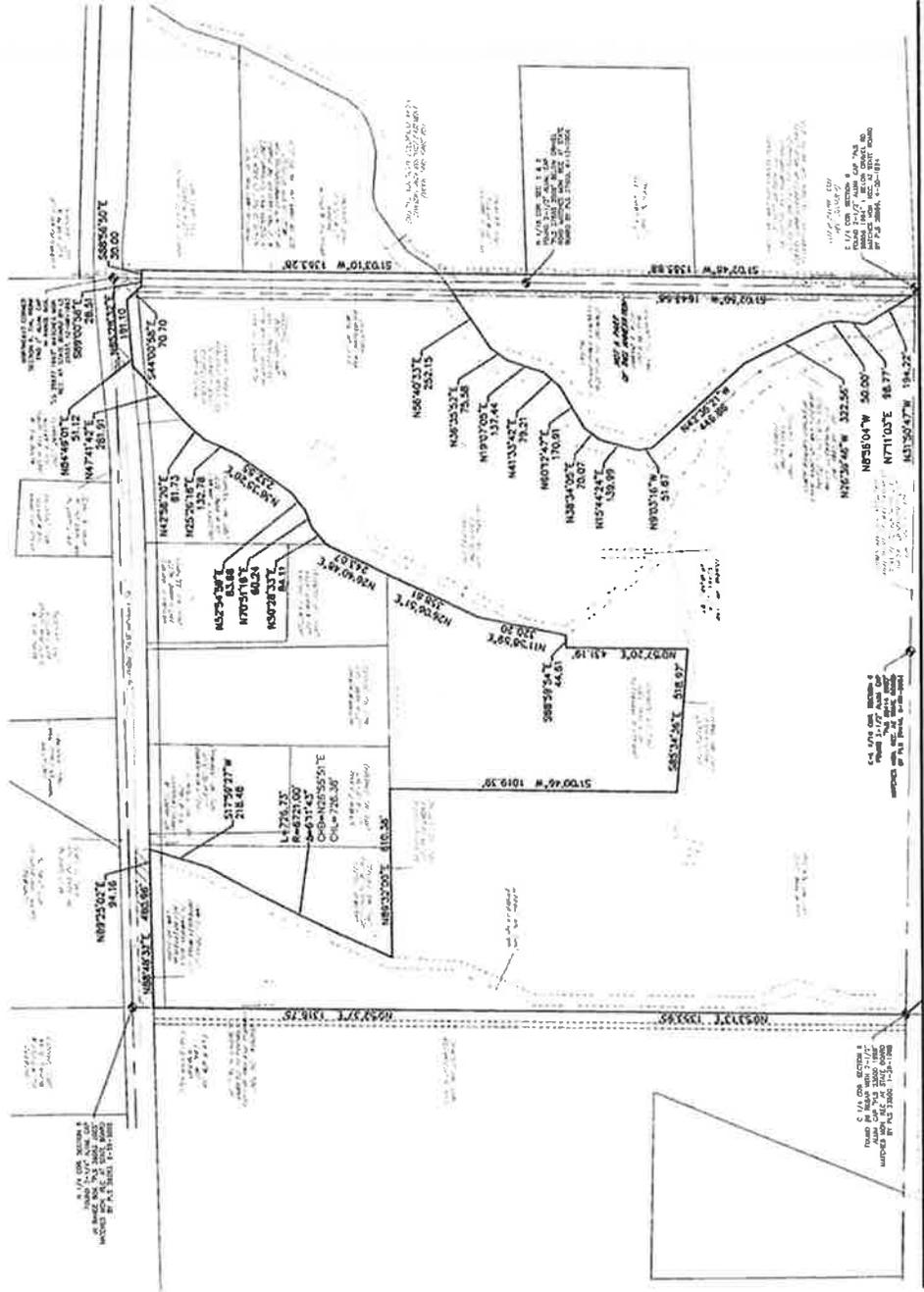
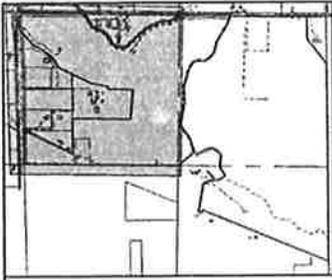
Revenue to the Town of Erie from this proposed development will come in the form of building permit fees, development fees, use taxes and additional homeowner's property taxes. The Andalusia commercial development will provide additional sales tax revenue to the Town, and the development's resident population will also generate increased retail sales taxes.

ATTACHMENT C

ANDALUSIA ANNEXATION

A PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST,
6TH. P.M., OF COUNTY OF WELD, STATE OF COLORADO

318.99 ACRES
SHEET 3 OF 3
AN-13-00048



- LEGEND**
- ◊ ADJUST CORNER AS NOTED
 - ADJUST LINE
 - MOUNTAIN VIEW
 - TOWN OF ERIC
 - CONTIGUOUS PROPERTY



Peak
 Civil Consultants
 200 W. HAMMOND AVE. SUITE 200
 SHELTONVILLE, COLORADO 80759
 P.O. BOX 100
 P.O. BOX 100
 P.O. BOX 100

ATTACHMENT D

**ANDALUSIA
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 20___, by and between **I & J Partnership L.P.**, a California limited partnership, the **Saeed & Forough Moradi Family Trust, K.A.C. Holdings, LLC**, a Delaware limited liability company, the **Mike & Shahla Moradi Trust**, dated November 28, 2006, the **Katina Moradi Trust**, dated December 16, 2005, the **Albert Moradi Trust**, dated December 16, 2005 and the **Caroline Moradi Trust**, dated December 16, 2005, hereinafter collectively referred to as “Owner,” and the Town of Erie, a municipal corporation of the State of Colorado, hereinafter referred to as “Erie” or “Town.”

WITNESSETH:

WHEREAS, Owner desires to annex to Erie the property more particularly described on “Exhibit A,” which is attached hereto, incorporated herein, and made a part hereof (such property is hereinafter referred to as “the Property”); and

WHEREAS, Owner has executed a petition to annex the Property (“Annexation Petition”), a copy of which petition is attached hereto as “Exhibit B,” and incorporated herein and made a part hereof; and

WHEREAS, it is to the mutual benefit of Erie and Owner hereto to enter into the following Agreement; and

WHEREAS, Owner acknowledges that upon annexation, the Property shall be subject to all ordinances, resolutions, and other regulations of Erie, as they may be amended from time to time; and

WHEREAS, the parties mutually recognize that it is necessary and desirable for orderly development that Erie be the source of usual and necessary urban services for property to be developed; and

WHEREAS, Owner acknowledges that the need for conveyances and dedication of certain property, including but not limited to property for streets, rights-of-way and easements, parks and open space, utility facilities and improvements, to Erie as contemplated in this Agreement are directly related to and generated by the development intended to occur within the Property and that no taking thereby will occur requiring any compensation; and

NOW, THEREFORE, in consideration of the above premises and the covenants as hereinafter set forth, it is agreed by and between Erie and Owner as follows:

I. ANNEXATION AND ZONING.

- A. Annexation.** The annexation of the Property shall be in conformance with the Colorado Municipal Annexation Act of 1965, as amended, and with the Town of Erie Municipal Code (“Code”) and with applicable Town regulations.

- B. Zoning.** Owner desires Low-Density Residential (LR) and Community Commercial (CC) zoning, as authorized by Title 10, of the Code. Owner acknowledges and accepts that no warranty, guarantee or promise is made on the part of Erie to so zone the Property as Low-Density Residential (LR) and Community Commercial (CC). Owner acknowledge and understand that the Town of Erie Board of Trustees (“Town Board”) determines what is an appropriate zoning for the Property, and the desired zoning as set forth herein does not in any way bind the Town Board to adopt the zoning for the Property. Owner states that granting of such zoning by Erie is a condition to annex the Property. Owner shall take all action necessary to permit zoning by Erie of the annexed area within the time prescribed by state statutes.
- II. ANNEXATION MAP.** The “Annexation Map” incorporated and adopted as a portion of the ordinance annexing the Property and attached hereto as “Exhibit C” complies with the requirements of C.R.S. 31-12-105 (1)(e).
- III. LAND DEDICATION.** The dedication of parks and open space, public easements for utilities, rights-of-way for streets and other public ways and dedications for other public purposes shall be by Special Warranty Deed, plat dedication or appropriate instrument of conveyance acceptable to Erie. All such dedications shall be free and clear of any liens and encumbrances, and shall be provided along with title insurance in an amount reasonably determined by Erie. Such dedications as may be required by Erie shall occur immediately upon request of Erie except that internal rights-of-way shall be dedicated at the time of subdivision platting, unless Erie specifies another time. Town and Owner agree that such dedications are directly related to and generated by development intended to occur within the Property and that no taking thereby will occur requiring any compensation.
- A. Roads and Utility Easements.** Owner shall dedicate rights-of-way for all roads and utility easements to Erie. All utility easements, dedicated to Erie, shall be for the use and the benefit of the various entities furnishing utility services, i.e., electrical, telephone, gas, TV cable, water sewer. ALL UTILITIES ON AND ADJACENT TO THE PROPERTY, EXCLUDING REGIONAL TRANSMISSION LINES, SHALL BE PLACED UNDERGROUND.
- IV. AVAILABILITY OF SERVICES.** Erie agrees to make available to the Property all of the usual municipal services in accordance with the ordinances and policies of Erie which services include, but are not limited to, police protection and water and sewer services, and all other services customarily and currently provided by Erie in the area to be annexed. Owner acknowledges that Town services do not include, as of the date of the execution of this Agreement, fire protection or emergency medical services, but the Property is presently included within the boundaries of and is entitled to receive such services from the Mountain View Fire Protection District.

Any and all obligations of Erie for water, sewer, and drainage improvements shall be the sole obligation of Erie's water and sewer enterprises and as such, shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of Erie within the meaning of any constitutional or statutory limitation. Any and all obligations of Erie for public improvements other than water, sewer, and storm drainage improvements shall be subject to annual appropriation by Erie.

- V. **WATER SERVICE.** Water service to the Property shall be provided by Erie. If the Property is not already in the Northern Colorado Water Conservancy District and/or the Municipal Subdistrict, the Owner agrees to petition for inclusion of the Property in said District(s) and to the payment of any fees and taxes levied by the District(s) as a condition of said inclusion prior to receiving water service from Erie. In addition, Owner shall exclude the Property from the Left Hand Water District if the Property is currently within said District prior to receiving water service from Erie. Owner hereby acknowledges its receipt of a copy of Titles 2 and 8 of the Code, as amended, concerning Town policy with respect to obtaining water service from Erie, the dedication of water rights to Erie in connection with annexations and the extension of water lines and pumping facilities to the Property. Owner agrees to comply with said Titles 2 and 8 of the Code, and with any amendments thereto, including any applicable amendments adopted subsequent to the annexation of the Property. Erie and Owner agree that such dedications are directly related to and generated by development intended to occur within the Property and that no taking thereby will occur requiring any compensation.
- A. **Extension of Water Services.** The extension of water mains or trunk lines shall be in accordance with Section 8-1-16 of the Code. Owner shall install at his sole cost and expense, all the water mains, trunk lines, pumping facilities and appurtenances necessary to provide service from Erie's system to the Property. These extensions may include the over sizing of lines and pumping facilities for future development of adjacent property. Owner shall install at his sole cost and expense, all the water lines, fire hydrants and appurtenances within the Property. Water lines lying within the dedicated rights-of-way shall be dedicated to Erie after construction. Any requirements for over sizing of water lines, and reimbursements to Owner for over sizing of water lines, will be subject to a separate Development Agreement.
- B. **Water Service Availability.** This Agreement is a commitment to provide water service to the Property. However, Erie does not warrant the availability of water service to Owner at a particular time for any phase of development. A determination of water service availability by Erie shall be made by a water system analysis at the time Owner requests water taps. In the event that Erie determines that it has insufficient water service availability, no water taps shall be issued until such time as there is water service availability.
- C. **Raw Water Fees.** Raw water fees shall be the existing Town raw water fees at the time a water tap is requested or required. Raw water fees shall be paid when

(a) a building permit for a structure is issued; (b) upon issuance of a landscape irrigation tap; or (c) as outlined in a subsequent Development Agreement.

- D. Water Tap Fees.** Water tap fees shall be the existing Town water tap fees at the time a water tap fee is requested or required. Water tap fees shall be paid when a building permit for a structure or landscape irrigation is requested from Erie.
- E. Water Rights Dedication.** Owner represents to Erie, to the current knowledge of Owner, that the tributary and non-tributary water rights listed on "Exhibit D," attached hereto and incorporated herein by this reference, constitute all of the water rights appurtenant to the subject Property. In accordance with the Title 8 of the Code, as amended and existing Town policy, Erie shall have the right to purchase historical surface water rights from the land at fair market value.

In addition, Owner shall convey to Erie at the time of annexation all non-tributary and not non-tributary groundwater underlying the land to be served. Said ground water shall be in addition to any water dedication hereunder, and no credit shall be given to said water for dedication purposes in accordance with the Code. Transfer of said water rights shall be accomplished prior to the recording of the annexation with the Weld County Clerk and Recorder.

VI. SEWER SERVICE. Sewer service to the Property shall be provided by Erie. Owner hereby acknowledges receipt of a copy of the Title 8 of the Code, concerning Town policy with respect to obtaining sewer service from Erie and the extension of sewer lines to the Property. Owner agrees to comply with the Title 8 of the Code, and with any amendments thereto, including any applicable amendments adopted subsequent to the annexation of the subject Property. Town and the Owner agree that dedications required by Title 8 of the Code are directly related to and generated by development intended to occur within the Property and that no taking thereby will occur requiring any compensation.

- A. Extension of Sewer Services.** The extension of sewer mains or trunk lines shall be in accordance with Title 8 of the Code. Owner shall install at his sole cost and expense, all the sewer mains, trunk lines, sewer lift stations, and appurtenant facilities necessary to connect to Erie's system at the connection point located at on the western boundary of the Property. These line extensions may include the oversizing of lines within the Property for future development of adjacent property. Owner shall install at his sole cost and expense, all the sewer lines and appurtenances within the Property. Sewer lines lying within dedicated rights-of-way shall be dedicated to Erie after construction. Any requirements for over sizing of sewer lines and appurtenant facilities, and reimbursements to Owner for over sizing of sewer lines and appurtenant facilities, will be subject to a separate Development Agreement.
- B. Sewer Service Availability.** This Agreement is a commitment to provide sewer service to the Property. However, Erie does not warrant the availability of sewer

service to Owner for any phase of development. A determination of sewer service availability by Erie shall be made by a sewer system analysis at the time Owner requests sewer taps. In the event that Erie determines that it has insufficient sewer service availability, no sewer taps shall be issued until such time as there is sewer service availability.

- C. **Sewer Tap Fees.** Sewer tap fees shall be the existing Town fees at the time which a sewer tap is requested or required. Sewer tap fees shall be paid when a building permit for a structure is requested from Erie.

VII. ROADS, TRAILS AND PUBLIC RIGHTS-OF-WAY. All public roads shall be constructed to the Town of Erie Standards and Specifications for Design and Construction of Public Improvements (“Standards and Specifications”). Trails shall be constructed as an integral feature of the development, in accordance with the Standards and Specifications. All public roads, trails and rights-of-ways shall be dedicated to Erie. Owner shall install, at Owner’s expense, street name signs, striping, stop signs, speed limit and other signs on all streets, in accordance with the Model Traffic Code, as from time to time amended, and other applicable legal requirements. The total cost of street light installation shall be the Owner’s obligation. The type of street lights shall be chosen by Erie. Owner shall provide a two (2) year guarantee for all improvements from the time of final acceptance to Erie.

VIII. CONFORMANCE WITH TOWN REGULATIONS. Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with all Town ordinances and resolutions, the Standards and Specifications, and the Code, including, without limitation, those pertaining to subdivision, zoning, streets, storm drainage, utilities, and flood control.

IX. PUBLIC IMPROVEMENTS. Owner agrees to design, construct and install in accordance with Town approved plans, certain public improvements including but not limited to streets, curb, gutter, sidewalks, storm sewer lines, storm drainage improvements, sanitary sewers, water lines, trails and park improvements within or adjacent to the Property. Owner agrees to guarantee construction of all required improvements, and, if requested by Erie, to dedicate to Erie any or all other required improvements. Owner agrees to enter into an agreement pertaining to such improvements and other matters prior to any development of the Property (the “Development Agreement”). The construction of public improvements may be subject to any reimbursement which may be provided for in the Development Agreement.

X. EXCLUSIVITY OF ANNEXATION PETITION. Owner agrees to not sign any other petition for annexation of the Property or any petition for an annexation election relating to the Property, except upon request of Erie.

XI. SPECIAL PROVISIONS.

- A. **Zoning.** Concurrent with this Annexation, the Town Board will approve the Andalusia Zoning Map.
- B. **Development Phasing.** The Property is anticipated to be developed in multiple phases as conceptually set forth on the map attached hereto as "Exhibit F" ("Conceptual Phasing Exhibit"). The installation of public improvements necessary to serve each phase shall be determined during the Preliminary Plat process.
- C. **Density.** Owner acknowledges that the maximum number of residential units that may be constructed on the Property is six hundred thirty-two (632) units, which shall be platted and constructed on the Property in accordance with Title 10 of the Code.
 - 1. **Diversification Standards.** Notwithstanding anything to the contrary in Section 6.7.D of Title 10 of the Code, the Property shall be required to provide not more than one (1) housing type and two (2) housing type variations.
- D. **Oil and Gas Well Sites.** All existing oil and gas well sites/facilities and all future oil and gas well sites/facilities on the Property shall be screened and integrated into open space and park areas within the Property in accordance with Title 10 of the Code. The setback to any occupied building as measured from existing or proposed wells, tanks, separators or incinerators shall be in accordance with Title 10 of the Code.
- E. **Waterline Installation and Oversizing.** In the event that any water lines or facilities are oversized to serve other properties (the "Benefited Properties"), Erie agrees to enter into one or more reimbursement agreements with the owners of such Benefited Properties causing such owners to reimburse any incremental costs to Owner prior to recordation of a final plat or approval of a site plan for development of the Benefited Properties. The reimbursements shall be required to be paid by the Benefited Property owners at such time as the first final plat is approved for the benefit of the Benefited Property. "Oversizing" shall mean any requirement by Erie to install a waterline, which is greater than twelve inches (12") or required by the development. "Incremental Costs" shall mean the cost difference of pipe and any related water system improvements attributable to Oversizing. Nothing contained in this Agreement shall operate to create an obligation on the part of Erie to pay or reimburse any costs to Owner in the event such costs are not recovered by Erie as contemplated herein, for any reason, from the properties or property Benefited Properties or Benefited Property owners.
 - 1. **Installation Obligations.** In accordance with Section E.2 below, Owner shall install, at its sole cost and expense, all the waterlines, pump stations, fire hydrants and other related facilities within the Property subject to the oversizing and reimbursement contributions as provided for herein or in a

subsequent Development Agreement. Waterlines lying within the dedicated rights-of-way or Town accepted easements shall be dedicated to Erie upon Erie's construction acceptance thereof.

2. **Off-Site.** Prior to the issuance of the first building permit on the Property, Owner shall install a looped waterline extension from Weld County Road 10.5. A second waterline within the Property shall be constructed to loop the water system. The sizing of the waterlines shall be determined and outlined in a subsequent Development Agreement based on the results of a water demand analysis, which is required to be submitted by Owner and approved by the Town Board with the first Preliminary Plat for the Property.
3. **Zone 2 Transmission Main Reimbursement.** Owner shall reimburse Erie \$142,079.00 for the cost of the Zone 2 Transmission Main that Erie constructed in Weld County Road 3 from Weld County Road 12 to State Highway 52. The full reimbursement shall be due to Erie at the time of the first final plat allowing development.

F. **Non-Potable Water.** Erie and Owner may desire to utilize non-potable or raw water for the irrigation of parks, open space, and major street rights-of-ways provided that such systems are economically feasible, in the Owner's reasonable discretion.

1. **Irrigated Areas.** Owner may construct and utilize a non-potable irrigation system within the Property which may serve, but not be limited to, parks, open space, and arterial and collector street rights-of-way. Potable water shall be used for the irrigation of residential lots and individual pocket parks which are less than one acre in size if they are not part of a larger open space or park area. Owner shall be required to dedicate only those water shares described below for the sodded areas, shrub areas, trees, and flower beds which will be shown on a non-potable irrigation plan. All native, drought tolerant landscaped areas shall be established utilizing leased raw water. Alternatively, Owner may elect to connect to the twelve (12) inch re-use line from the North Waste Water Treatment Plant to provide water for the non-potable system serving the Property. The cost and details of any such connection shall be as set forth in a future Development Agreement.
2. **Non-Potable Irrigation Plan.** In the event Owner elects to proceed with a non-potable irrigation system, Owner shall submit to Erie a non-potable irrigation plan ("Non-Potable Irrigation Plan") with each Final Plat, which shall identify the areas to be irrigated with the non-potable irrigation system, the types of vegetation to be irrigated and the facilities and control devices necessary to provide and control such water. Erie will accept dedication of water rights for raw water irrigation upon Erie's written

approval of the Non-Potable Irrigation Plan.

3. **Non-Potable Water Sources.** Water to be used for irrigation may include the following sources, subject to the terms and limitations within this Agreement. Any raw water acquired by Owner shall reduce Owner's obligation to purchase, and Erie's obligation to reserve, re-use water.
 - a. **Leyner-Cottonwood Consolidated Ditch Company shares ("Leyner-Cottonwood").** This water source shall be used as a supplement to raw CBT water and Erie's re-use water system. For purposes of this Agreement, Owner shall receive a credit of 0.21 acre feet per share of Leyner-Cottonwood, which is the dry year yield of said shares.
 - b. **Erie Coal Creek Reservoir and Ditch Company shares ("ECC").** This water source shall be used as a supplement to raw CBT water and Erie's re-use water system. For purposes of this Agreement, Owner shall receive a credit of 0.56 acre feet per share, which is the dry year yield of said shares.
 - c. **Other Native Water.** Lower Boulder, Community Ditch, FRICO or other native waters may be dedicated for the irrigation of sodded areas or as temporary irrigation for the establishment of native seeded areas. The associated yield for these waters shall be determined prior to dedication.
 - d. **Re-use Water.** Erie will have reusable consumptive use credits available at Erie's wastewater treatment plant in the future. When re-use credits become available, they shall be made available to Owner at a cost of the re-use water dedication fee at the time which the applicant requests the re-use water tap. Should Owner make use of such system, Owner shall reimburse its proportional share of use of any reuse system infrastructure at the time of connection and in accordance with a future development agreement with Erie identifying the amount and timing of such reimbursements.
 - e. **Potable Water.** Owner shall use potable water for the irrigation of individual pocket parks which are less than one acre in size that are not part of a larger open space or park area, any areas which cannot be connected to the non-potable irrigation system in a cost effective manner and/or as a supplement to the non-potable water sources set forth above. Owner shall pay water dedication fees for potable water used for irrigation in accordance with the Code.
4. **Water Dedications.** Any water shares conveyed by Owner to Erie as

described above shall be conveyed by Special Warranty Deed, with an endorsement of the original share certificate and a stock assignment satisfactory to the applicable ditch company. Owner also hereby agrees to execute any additional documentation which may be necessary for transfer of said water rights.

5. **Water Court Proceedings.** Erie and Owner recognize that water court proceedings may be required for use of the raw water sources set forth above. Erie and Owner agree to cooperate in an effort to use the non-potable water sources in a manner which will not require water court proceedings. However, should water court proceedings be required, Owner shall be responsible for all costs of said proceedings and for any of the additional water credits required by the water court.
 6. **State Engineer and Ditch Company Approvals.** Owner shall be solely responsible for acquiring all necessary approvals from the Office of the State Engineer and the ditch companies for use of Leyner-Cottonwood and ECC shares on the Property. Erie will cooperate with Owner in acquiring said approvals, at no cost to Erie.
 7. **Phased Acquisition of Water Rights.** Erie and Owner agree that the acquisition of water rights for non-potable irrigation may be acquired on an as-needed basis for irrigation within the Property.
 8. **Irrigation Water Availability.** In the event that re-use water is not available when the Property is constructed, Erie will supply potable water in lieu of non-potable water for the Property on a temporary basis at potable water rates.
 9. **Re-use Water Rates.** Erie and Owner recognize that Erie will charge re-use water rates for raw water used on the Property in accordance with the Code.
- G. **Sewer Installation and Oversizing.** In the event that any sewer lines or facilities within the Property are oversized to serve other properties (the "Sewer Benefited Properties"), Erie agrees to enter into one or more reimbursement agreements with the owners of such Sewer Benefited Properties causing such owners to reimburse any Incremental Costs to Owner prior to recording a final plat or approval of a site plan for development of the Sewer Benefited Properties. The reimbursement shall be required to be paid by the Sewer Benefited Properties owners at such time as the first final plat is approved for the benefit of the Sewer Benefited Properties. "Oversizing" shall mean any requirement by Erie to install a sewer line which is greater than that which would otherwise be required to serve only the Property. "Incremental Costs" shall mean the cost difference of pipe and related facilities attributable to the Oversizing. Nothing contained in this Agreement shall operate to create an obligation on the part of Erie to pay or

reimburse any costs to Owner in the event such costs are not recovered by Erie as contemplated herein, for any reason, from the Sewer Benefited Properties or Sewer Benefited Property owners.

1. **Installation Obligations.** Except as provided in Section F.2 below, Owner shall install, at its sole cost and expense, all the sewer lines and appurtenances located within the boundaries of the Property, subject to the oversizing and reimbursements provided for herein or in a subsequent Development Agreement. Sewer lines lying within dedicated rights-of-way or Town approved easements shall be dedicated to Erie upon Erie's construction acceptance thereof.
2. **Morgan Hill Sewer Line Extension.** Erie anticipates that an extension of a sewer line serving the adjacent Morgan Hill project (the "Morgan Hill Line Extension") will be necessary in the future. Owner shall be required to oversize sewer lines and facilities within the Property to accommodate this extension. Owner shall be reimbursed for such oversizing as provide in Section F, above. If the Morgan Hill Line Extension is constructed prior to development of the Property, Owner shall reimburse the entity installing such line for the Incremental Cost of the Morgan Hill Line Extension at the time of connection to the Morgan Hill Line Extension.
3. **North Water Reclamation Facility (NWRf) Interceptor.** Owner shall reimburse Erie for connection to the existing 30-inch NWRf Interceptor line at the rate of \$410.00 per single family equivalent at the time of each final plat for units which connect to this sewer line.
4. **Off-Site.** The sewer lines shall be sized to provide service to the entire sewer basin, as such basin is defined in a subsequent Development Agreement. Erie agrees to enter into one or more reimbursement and service agreements with Owner and the owners of other Sewer Benefited Properties in the basin causing such owners to reimburse any incremental costs to Owner or such other entity as may construct the sewer line serving all such Sewer Benefited Properties. Based on sewer capacity, any reimbursement payments described above shall be made at the time of construction of the sewer line or at the earlier of (a) final plat for any Sewer Benefited Properties intending to connect to such sewer line, or (b) such time as the first connection is made to the sewer line, in either case if such final plat is recorded or connection is made after the sewer line has been constructed.

H. Storm Drainage Improvements. Currently, none of the Property is included in a regional drainage authority.

1. **Criteria and Standards.** Owner shall meet all Town design criteria for drainage improvements within the Property, and as noted in Erie of Erie's

Weld County Outfall Systems Plan, which improvements shall be set forth in a Phase 2 Drainage Report and Plan to be submitted and approved with the Preliminary Plat.

2. **On-Site.** In the event that drainage facilities within the Property are oversized to benefit other properties during development of the Property by Owner, Erie agrees to enter into one or more reimbursement agreements consistent with Section G. above with the owners of other properties benefiting from such oversizing, which shall allow Owner to be reimbursed for the incremental oversizing costs paid by Owner. "Oversizing" for drainage purposes shall mean any requirement by Erie for any channel or other drainage facility within the Property to be a size greater than the size required to serve the Property. Erie will not include in the reimbursement the cost to convey historic flows through the Property.
3. **Drainage Facilities.** Subject to Erie's approval, the Property will contain several water quality and storm water detention areas, which Owner intends to incorporate within the open space and parks on the Property. This detention will ultimately release into the regional drainage basins in the area. Owner agrees that it will incorporate open, grass-lined channels where appropriate in place of concrete channels or underground piping. In the event Erie requires Owner to oversize any drainage improvements to accommodate development of other properties, Erie shall enter into reimbursement agreements consistent with Section G. above for such other properties requiring that they reimburse Owner for their pro-rata share of such oversizing costs. Erie will not include in the reimbursement the cost to convey historic flows through the Property.
4. **Off-Site Drainage Improvements.** Owner shall release drainage from the Property at historic rates which shall be mitigated prior to release from the Property. Owner shall provide a solution acceptable to Erie to return all discharges (all events, flood peaks, and volumes) to mimic existing hydrologic conditions or to safely channel flows to Boulder Creek, such that all drainage from the Property meets historic rates.
5. **Drainage Liability.** Owner shall indemnify and hold harmless Erie for any liability the latter may have on account of any change in the nature, direction, quantity and/or quality of historical drainage flow resulting from the development of this Property or from the construction of streets or storm sewers therein. In addition, Owner shall reimburse Erie Owners proportional share of any and all costs including, but not limited to, reasonable attorney's fees, which Erie incurs in acquiring or condemning rights-of-way or easements which Erie is required to acquire or condemn or which Erie is held to have acquired or condemned, for drainage as a result of the development of this Property.

- I. Off-Site Easements and Rights-of-Way.** In the event Owner is unable to obtain off-site easements and rights-of-way which are necessary for the installation of raw water services, sanitary sewer services, storm drainage outfalls and roadways to serve the Property, Erie agrees to assist Owner in obtaining such easements and rights-of-way.
- J. Districts.** Erie acknowledges that Owner may seek to establish one or more metropolitan districts to service the Property ("Metro District") for the purpose of financing, constructing, installing, acquiring and maintaining certain public improvements required for the development of the Property. Erie agrees, to the extent legally permitted, to approve one or more Metro Districts for the Property. Erie shall have no obligation to approve a Title 32 metropolitan district service plan that does not comply with the procedural and substantive requirements of the Special District Control Act, Part 2 of Article 1, Title 32, C.R.S., with Erie-required form of service plan, or with Town standards or policies concerning the formation of special districts. The Metro District may acquire property with its eminent domain powers with prior written permission of Erie. Any requirement of Owner in this Agreement, including but not limited to, the construction of improvements, reimbursement for improvements, letters of credit and the payment of fees, may be undertaken by the Metro District, at Owner's discretion, provided only that such activity is in accordance with the Code and a lawful activity of a special district under C.R.S. 32-1-101 et seq. Any reimbursements described herein for such improvements shall be payable to the entity who constructed such improvements, or such entity's assignee.
- 1. Establishment.** Owner may submit, following the Property's annexation, a Consolidated Service Plan for the Property to Erie for consideration pursuant to C.R.S. 32-1-101, et seq. The Metro District shall follow the Code regarding metropolitan districts.
- K. Schools.** Owner acknowledges and agrees to comply with the Intergovernmental Agreement dated June 8, 2011 between Erie and St. Vrain Valley School District ("SVVSD"), as the same may be amended from time to time. No school site dedication is required for or on the Property, however, Erie acknowledges that Owner and SVVSD have entered into an agreement providing for the dedication of a school site on the Property.
- L. Public and Private Land Provisions.**
- 1. Private Amenity Facilities.** Owner may construct one or more private amenity facilities on the Property. These facilities may include pools, clubhouses, a recreation center, parking lots, landscaping, etc., to be determined at Owner's discretion at the time of Preliminary Plat. These facilities and related improvements shall be owned and maintained by the Metro District or a Homeowner's Association.

2. **Open Space.** Owner shall meet the open space land dedications required in Title 10 of the Code, based on the number of units approved with the preliminary plat(s). Erie shall own and maintain open space lands that comply with Title 10 dedication requirements. Owner shall receive open space credit for permanent water bodies, raw water storage ponds, detention ponds and water quality ponds as long as the ponds are organically graded into the adjacent open space and comply with Title 10 of the Code.

Erie shall maintain Spine Trails that are located within open space lands that do not meet Erie's open space dedication standards. The designation of trail(s) as a Spine Trail shall be at the sole discretion of Erie.

3. **Parks.** Owner shall meet the park land dedications required in Title 10 of the Code, based on the number of units approved with the preliminary plat(s).

- a. **Community Park.** Owner shall pay a fee in-lieu of land dedication for a Community Park. The fee in-lieu payment shall be based on an appraisal as outlined in Title 10 of the Code and shall be based on the number of dwelling units permitted by each final plat and payable prior to the recordation of each final plat.

Owner's fee in-lieu of land dedication for the Community Park may be reduced by the acreage of over dedication required to meet the minimum 7 acre Neighborhood Park requirement outlined below.

- b. **Neighborhood Park.** Owner shall dedicate a minimum of a 7 acre Neighborhood Park that complies with the Neighborhood Park standards outlined in Title 10 of the Code. Any water storage and drainage facilities within the Neighborhood Park will be integrally designed in such park in accordance with Title 10 of the Code. Owner shall be responsible for the cost of grading, grass, irrigation and water taps and/or raw water fees for the Neighborhood Parks, in accordance with Title 10 of the Code. Erie shall be responsible for the design and construction of the Neighborhood Park and associated costs not described herein.

- c. **Pocket Parks.** Pocket Parks shall be dedicated and constructed on the Property in accordance with Title 10 of the Code and the Town of Erie Parks, Recreation, Open Space and Trails Master Plan. The location of each Pocket Park will be determined at the time of Preliminary Plat. Owner shall be responsible for the construction of the Pocket Parks. Pocket Parks shall be maintained by the

Metro District or a Homeowner's Association.

- M. Mine Subsidence.** Owner shall cause a mine subsidence investigation report to be completed and shall submit such report with each preliminary plat or minor plat on the Property.
- N. Entry Monuments.** Owner shall be allowed to construct entry monuments at any major entry point into the Property along Weld County Road 3, Weld County Road 12, and State Highway 52 in accordance with Title 10 of the Code and, if applicable Colorado Department of Transportation ("CDOT") regulations.
- O. Land Use Vesting.**
- 1. Vested Rights.** Erie acknowledges that the development of the Property, as contemplated by and this Agreement, shall require the investment of substantial funds by Owner over a long period of time and that, due to the uncertainties of future market conditions and cycles, the full development of the Property might not be completed for many years. Further, Erie acknowledges that as an inducement to Owner to agree to annex the Property, Erie has agreed to provide vested property rights to the fullest extent permitted by Colorado law. This Annexation Agreement is a "development agreement" pursuant to C.R.S. 24-68-104(2), and as authorized by Section 20.090 of the Erie Vested Rights Ordinance. In accordance with and pursuant to C.R.S. 24-68-105, Erie agrees not to take any zoning or land use action, by action of Erie or through initiative measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the Property as set forth in this Annexation Agreement and on the Zoning Map. Vested rights are hereby established with respect to the zoning, land use and other terms of this Agreement to the fullest extent permitted by C.R.S. 24-68-101, *et seq.* The Property shall be vested for a period of ten (10) years beginning with the effective date of this Agreement. However, the period of vested rights shall be extended for an equal period of time for any period of time during which Erie is unable to supply water taps, sewer taps and/or building permits due to insufficient availability of any of these. Due to the scale of the development, the magnitude of the development costs and the possible duration of the development process, such property rights are vested from the date of the adoption of said ordinance. At such time as any portion of the Property receives final development plan or final plat approval, Erie agrees to enact such supplemental ordinances as Owner may request to extend the vested rights granted herein to such final development plan or final plat.
 - 2. Enforcement.** Erie agrees that the foregoing vested rights provision may be specifically enforced. Erie acknowledges that, due to the substantial financial investment which Owner must make toward the development of

the Property, the damages allowed under C.R.S. 24-68-105(1)(c) may be inadequate in the event Owner is unable to enforce this provision. Accordingly, Owner shall have the ability to waive its right to receive compensation pursuant to C.R.S. 24-68-105(1)(c) or any similar future statutory provision by obtaining relief in the form of specific performance, injunction or other appropriate declaratory or equitable relief.

3. **Processing.** Erie shall permit the development of the Property upon the submission of the proper plans, applications, plats and the payment of fees required by Erie ordinances and regulations. Erie agrees not to unduly delay or hinder the development of the Property (such as refusing to timely process, review and act upon development applications), nor shall Erie unreasonably withhold its consent to or approval of a development request or permit made in substantial compliance with the Annexation and Zoning Maps, Title 10 of the Code, and this Agreement. Erie agrees to coordinate with Owner any filings or applications before other governmental or quasi-governmental entities necessary for Owner to fulfill its obligations under this Agreement or to permit development of the Property.

If Erie does not have adequate staff for the timely review and processing of Owner's applications, Erie may contract for such services, and Erie shall charge Owner for the actual costs related thereto.

- P. **Roadway Improvements.** Owner shall only be required to complete the improvements identified below. Owner shall not be responsible for the construction of any roadway improvements not located on or immediately adjacent to the Property, other than identified in a future Development Agreement. In addition, the rights-of-way for one half of the ultimate width of Weld County Road 3 and State Highway 52 adjacent to the Property shall be dedicated to Erie by plat at such time as the first final plat of the Property. In the event that any properties located adjacent to the roadway improvements described below are now or subsequently annexed into the Town of Erie and the roadway improvements described below serve such other properties (the "Roadway Benefited Properties"), Erie agrees to enter into one or more reimbursement agreements with the owners of such Roadway Benefited Properties causing such owners to reimburse any Incremental Costs to Owner prior to recording a final plat or approval of a site plan for development of the Roadway Benefited Properties. The reimbursement shall be required to be paid by the Roadway Benefited Properties owners at such time as the first final plat or site plan is approved for the benefit of the Roadway Benefited Properties. For the purposes of this subsection, "Incremental Costs" shall mean the one half the cost of any adjacent roadway improvement or one fourth of the cost of any traffic signalization for each corner of the signalized intersection adjacent to the Roadway Benefitted Property. Nothing contained in this Agreement shall operate to create an obligation on the part of Erie to pay or reimburse any costs to Owner

in the event such costs are not recovered by Erie as contemplated herein, for any reason, from the Roadway Benefited Properties or Roadway Benefited Property owners.

1. Traffic Signalization.

- a. Weld County Road 3 & Highway 52.** Owner shall be responsible for constructing and funding the installation of a mast arm traffic signal at Weld County Road 3 and State Highway 52, which shall be constructed at such time as Erie has determined that the signal is warranted under the then current Manual on Uniform Traffic Control Devices ("MUTCD"). Owner may be reimbursed up to seventy-five percent (75%) of the cost of installation from future developments.

- b. West Access & State Highway 52.** Owner shall be responsible for constructing and funding the installation of a mast arm traffic signal at the West Access and State Highway 52 which shall be constructed at such time as Erie has determined that the signal is warranted under the MUTCD. The Owner may be reimbursed up to fifty percent (50%) of the cost of the installation from future developments.

In the event the signal is not warranted by the time the last final plat of the Property is approved, then Owner shall be relieved of this obligation.

- c. Weld County Road 3 & Weld County Road 12.** Owner shall be responsible for not more than twenty five percent (25%) of the cost of installing a mast arm traffic signal at Weld County Road 3 and Weld County Road 12, which shall be paid to Erie at such time as Erie has determined that the signal is warranted under the MUTCD or when the last final plat for the Property has been processed, whichever occurs first.

2. Roadway maintenance.

- a. Roadway.** After construction acceptance of any roadway improvements installed by Owner, the Owner shall be responsible for maintenance (except snow plowing) of such roadway improvements and the landscape improvements within any roadway medians for a two year warranty period.

- b. Rights-of-Way Landscaping.** The landscaping for the roadways described in Section XII.O.3 below, including within the rights-of-way and any adjacent landscape tracts or easements shall be primarily irrigated native grasses with trees on drip irrigation. At the Owner's discretion, sod, ornamental grasses or perennials shall

be included at the intersection of the primary roadways. Owner shall have no obligation to install landscaping along roadways to the extent not adjacent to the Property. After Erie's construction acceptance of the landscape improvements, the Homeowners Association or Metro District shall be responsible for the maintenance of landscape improvements within all adjacent rights-of-way (except medians on arterials) and buffers.

3. Roadway Section.

- a. **Weld County Road 3.** Owner's obligation to construct, or provide cash in lieu for the construction of, ½ of Minor Arterial roadway improvements from State Highway 52 to Weld County Road 12 shall be set forth in a subsequent Development Agreement. The improvements shall include but not be limited to 27-foot paved travel lanes with sidewalk on one side and roadside ditches and any regional drainage as the ½ roadway section requires. The construction shall be completed in phases as determined during the Preliminary Plat process.
- b. **State Highway 52.** Owner shall construct safety improvements on State Highway 52 including but not limited to turn lanes, deceleration lanes, acceleration lanes, and streetlights, as recommended in the Traffic Impact Study or as required by CDOT. The construction shall be completed with any phase that abuts or accesses State Highway 52. All accesses to State Highway 52 will require a CDOT Access Permit and will be subject to CDOT review and approval.

- Q. Ditch Crossings.** Owner acknowledges and understands that three irrigation ditches, owned by three independent ditch companies, traverse the Property. Owner further acknowledges and understands that the three ditch companies are separate and independent entities, and are not related to Erie.

Owner shall obtain all required approvals and permits from both Erie and the applicable ditch company prior to performing any construction on or making any improvements related to, crossing, undergrounding, or affecting in any manner a ditch company's ditch.

R. Disclosure Statements.

1. **Airport Acknowledgement.** Owner acknowledges that the Property is located within close proximity of the Parkland Estates and Erie Municipal Airports. At the time of Preliminary Plat application, Owner shall provide Erie the following documents for Town approval:
 - a. **Contract Disclosure Statement.** The Disclosure Statement shall

be an addendum to any Purchase Agreement that acknowledges the proximity of the Parkland Estates and Erie Municipal Airports and relative to the purchasers' property.

2. **Oil and Gas Acknowledgement.** Owner acknowledges that multiple oil and gas production/operation facilities are located within and within close proximity to the Property. At the time of Preliminary Plat application, Owner shall provide Erie the following documents for Town approval:

a. **Contract Disclosure Statement.** The Disclosure Statement shall be an addendum to any Purchase Agreement that acknowledges the proximity of oil and gas production/operation facilities relative to the purchasers' property.

XII. MISCELLANEOUS PROVISIONS.

A. **Interpretation.** Nothing in this Agreement shall constitute or be interpreted as a repeal of Erie's ordinances or resolutions, or as a waiver of Erie's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of Erie and its inhabitants, nor shall this Agreement prohibit the enactment or increase by Erie of any tax or fee.

B. **Severability.** If any part, section, subsection, sentence, clause or phrase of this Agreement is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Agreement. Erie and Owner hereby declare that they would have agreed to the Agreement including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

C. **Amendments to the Agreement.** This Agreement may be amended, at any time, upon agreement of Erie and Owner hereto. Such amendments shall be in writing, shall be recorded with the County Clerk & Recorder of Weld County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property subject to the amendment unless otherwise specified in the amendment.

In addition, this Agreement may be amended by Erie and any Owner without the consent of any other Owner as long as such amendment affects only that amending Owner's portion of the Property. Such amendments shall be in writing, shall be recorded with the County Clerk & Recorder of Weld County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property subject to the amendment unless otherwise specified in the amendment.

- D. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors in interest, or their legal representatives, including all developers, purchasers and subsequent owners of any lots or parcels within the Property, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk & Recorder of Weld County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
- E. Indemnification.** Owner agrees to indemnify and hold harmless Erie and Erie's officers, employees, agents, and contractors, from and against all liability, claims, and demands, including attorney's fees and court costs, which arise out of or are in any manner connected with the annexation of the Property, or with any other annexation or other action determined necessary or desirable by Erie in order to effectuate the annexation of the Property, or which are in any manner connected with Erie's enforcement of this Agreement. Owner further agrees to investigate, handle, respond to, and to provide defense for and defend against or at Erie's option to pay the attorney's fees for defense counsel of Erie's choice for, any such liability, claims, or demands.
- F. Termination.** If the annexation of the Property is, for any reason, not completed then this Agreement shall be null and void and of no force and effect whatsoever.
- G. No Right or Remedy of Disconnection.** No right or remedy of disconnection of the Property from Erie shall accrue from this Agreement, other than provided by applicable state laws. In the event the Property or any portion thereof is disconnected at Owner's request, Erie shall have no obligation to serve the disconnected property or portion thereof and this Agreement shall be void and of no further force and effect as to such property or portion thereof.
- H. Annexation and Zoning Subject to Legislative Discretion.** Owner acknowledges that the annexation and subsequent zoning of the Property are subject to the legislative discretion of the Town Board. No assurances of annexation or zoning have been made or relied upon by the Owner. In the event that the Town Board, in the exercise of its legislative discretion, does not take any action with respect to the Property herein contemplated, then the sole and exclusive remedy for the breach hereof accompanied by the exercise of such discretion shall be the withdrawal of the petition for annexation by the Owner, or disconnection from Erie in accordance with state law, as may be appropriate.
- I. Legal Discretion in the Case of Challenge.** Erie reserves the right to not defend any legal challenge to this annexation, In the event such a challenge occurs prior to any expiration of any statute of limitation, Erie may, at its discretion, choose to legally fight the challenge or allow the challenge to proceed without defense. This does not restrict the Owner from engaging Erie's legal representatives in such a defense, at no cost to Erie.

- J. Application of Town Policies.** Upon annexation, all subsequent development of the Property shall be subject to and bound by the applicable provisions of Erie ordinances, as amended, including public land dedications, provided however, that changes or amendments to the code, after the date of this Agreement shall in no way limit or impair Erie's obligation hereunder, except as specifically set forth in this Agreement.
- K. Amendments to Governing Ordinances, Resolutions and Policies.** As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinance, resolution, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, or policy, and the parties agree that such amendments or revisions shall be binding upon Owner.
- L. Remedies.** It is understood and agreed by the parties that Erie shall have all available remedies for breach of this Agreement in law or in equity, including but not limited to specific performance and damages. In the event of breach or default by Erie, the sole remedy hereunder for Owner shall be the equitable remedies of specific performance or injunction. Owner, its successors and assigns, hereby waive any rights to money damages for any such breach or default.
- M. Legal Fees.** In the event that either party finds it necessary to retain an attorney in connection with a default by the other as to any of the provisions contained in this Agreement, the defaulting party shall pay the other's reasonable attorney's fees and costs incurred in enforcing the provisions of this Agreement.
- N. Reimbursement for Other Costs.** Owner shall reimburse Erie for any third party costs necessary for the orderly and proper development of the Property, including but not limited to consultant's fees for planning and engineering, and attorney's fees for legal services beyond the normal document review, which is directly linked to the Property.
- O. Avigation Easements.** Owner agrees to provide Erie with an executed avigation easement, attached hereto as "Exhibit E," (which avigation easement shall not be recorded until the Property is annexed to Erie), which provides Erie an easement for the operation of aircraft to and from the Erie Municipal Airport, within the airspace of Owner's property. In the event the annexation of the Property is, for any reason, not completed then such unrecorded avigation agreement shall be deemed to be null and void and shall be immediately returned to Owner.
- P. Oil and Gas Access Roads.** All oil and gas access roads located on the Property will be considered a current obligation between Owner and the oil and gas company(s). Owner shall enter into Surface Use Agreements that shall be recorded against the Property, with the oil and gas companies and mineral rights owners for a relocation plan of wells, future drilling sites, collector lines, tanks and batteries, and access roads. Owner shall be responsible for providing

screening, fencing and road access, in conformance with the Code. Erie shall not be responsible for any maintenance of any current oil and gas access road.

- Q. Cooperation.** Erie and Owner agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the same.
- R. Timely Submittal of Materials.** Owner agrees to provide legal documents, surveys, engineering work, newspaper publication, maps, reports and other documents necessary to accomplish the annexation of the Property and the other provisions of this Agreement.
- S. Compliance with State Law.** Erie and Owner shall comply with all applicable State law and regulations.
- T. Recording of Agreement.** This Agreement shall be recorded in the records of the Weld County Clerk and Recorder.

XIII. COMPLETE AGREEMENT. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein this Agreement may be enforced in any court of competent jurisdiction.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

OWNER:
I & J PARTNERSHIP L.P.
By: [Signature]
Its: _____
Date: 1/28/2014

STATE OF CALIFORNIA)
COUNTY OF Los Angeles)^{SS}

The foregoing instrument was acknowledged before me this 28 day of January, 2014 by Isaac Moradi as OWNER AND AUTHORIZED AGENT of I & J PARTNERSHIP L.P..

My commission expires: July-03-2017
Witness My hand and official seal.

[Signature]
Notary Public
MAHSHID HOMAYONFAR KASHANI



State of California

County of LOS ANGELES.

On 01-28-2014 before me, MAHSHID HOMAYONFAR KASHANI, NOTARY PUBLIC personally appeared ISAAC MORADI,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)
Signature _____



TOWN:
TOWN OF ERIE

Joseph A. Wilson, Mayor

Date

ATTEST:

Nancy J. Parker, Town Clerk

Date

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by Joseph A. Wilson and Nancy J. Parker, Mayor and Town Clerk, respectively, of the TOWN OF ERIE.

My commission expires:
Witness My hand and official seal.

Notary Public

EXHIBITS LIST

- EXHIBIT A – Legal Description
- EXHIBIT B – Annexation Petition
- EXHIBIT C – Annexation Map
- EXHIBIT D – Water Rights Appurtenant to Property
- EXHIBIT E – Avigation Easement
- EXHIBIT F – Conceptual Phasing Exhibit

“EXHIBIT A”

Legal Description

“EXHIBIT B”
Annexation Petition

“EXHIBIT C”

Annexation Map

“EXHIBIT D”

**Water Rights Appurtenant to Property.
(Listing of all tributary and non-tributary water rights
attached to the property)**

[THERE ARE NO WATER RIGHTS APPURTENANT TO THE PROPERTY]

“EXHIBIT E”

Avigation Easement

GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT

THIS GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT is made and entered into this ____ day of _____, 20__, by and between _____, hereinafter and collectively called “Grantor” and the **TOWN OF ERIE, COLORADO**, a Colorado municipal corporation, whose address is P.O. Box 750, Erie, CO 80516, hereinafter called “Grantee”;

WITNESSETH:

WHEREAS, Grantor owns the real property (hereinafter referred to as the “Property”) over, across and through which the Grantee wishes to acquire a permanent, perpetual non-exclusive easement for avigation and aviation purposes, as described in paragraph 1, below;

WHEREAS, the Grantor and the Grantee have agreed to terms and conditions for the grant of the easement to the Grantee and the Grantee’s use and operation of the easement; and,

WHEREAS, the Grantor and the Grantee hereby wish to set forth their agreement and enter into this Grant of Permanent Avigation Easement Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the obligations, covenants and agreements herein set forth, the legal sufficiency of which the parties due hereby acknowledge, the parties hereto agree as follows:

1. Grant of Easement. The Grantor hereby grants to the Grantee an easement and right-of-way for the use and benefit of the Grantee and of the public appurtenant to, over, across and through the property described on “Exhibit A,” which exhibit is attached hereto and incorporated herein by this reference (herein referred to as the “Property”), for the passage of all aircraft (“aircraft” being defined for the purposes of this instrument as any device now know or hereinafter invented, used or designated for navigation of or flight in the air) by whomsoever owned and operated, in the airspace above the surface of Grantor’s Property to an infinite height above said Grantor’s Property, together with the right to cause in said airspace such noise, vibration, and all other effects that may be caused by the operation of aircraft using said airspace for landing at, taking off from, or operating at the Erie Municipal Airport and/or the Parkland Estates airport (herein after referred to as the “Avigation Easement”); and Grantor hereby waives, remises and releases the Grantee from any and all rights or causes of action which Grantor now has or which Grantor may have in the future against the Grantee, its successors and assigns, due to such noise, vibration, and other effects that may be caused by the operation of aircraft landing at, taking off from, or operating at the Erie Municipal Airport and/or the Parkland Estates airport, or the use in general of the Avigation Easement as granted herein.

2. No Structure to Interfere with the Avigation Easement. This Avigation Easement grants and conveys unto the Grantee, its agents, servants and employees, a continuing right and easement to take any action necessary to prevent the erection or growth of any structure, tree or other object into the airspace, or to mark or light as obstructions to air navigation any and all

structures, trees or other objects, that may interfere with the use of the Erie Municipal Airport and/or the Parkland Estates airport, together with the right of ingress to, egress from, and passage over the Grantor's Property for such purpose.

3. No Electrical Interference. The Grantor further agrees that this Avigation Easement and the Property described hereon is subject to a covenant whereby the Property will not hereafter be used or permitted or suffered to use in such a manner as to create electrical interference with navigational signals or radio communications at the Erie Municipal Airport and/or the Parkland Estates airport and aircraft, or which mimics airport lights, or which results in glare affecting aircraft using the Erie Municipal Airport and/or the Parkland Estates airport, or which otherwise endangers the landing, take-off, and passage of aircraft in the vicinity of the Grantor's Property.

4. Grantor's Warranty. Grantor warrants that he has full right and lawful authority to make the Grant of Easement herein contained, and promises and agrees to defend against any defect in title to the Property or the right to make the Grant of Easement as herein contained.

5. Inurement. Each and every one of the benefits and burdens of this Permanent Grant of Avigation Easement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.

6. Complete Agreement. This Permanent Grant of Avigation Easement represents the complete agreement between the parties hereto, and supersedes any and all other prior agreements, written and oral, between the parties.

7. Headings for Convenience Only. The paragraph headings are for convenience only and the substantive portions hereof control without regard to the headings.

8. Modification. This Permanent Grant of Avigation Easement shall be modified by a writing only, which writing must be only executed by the parties hereto in order to be effective.

9. Controlling Law. This Permanent Grant of Avigation Easement shall be governed under, and construed pursuant to, the laws of the State of Colorado, and the parties hereto agree to jurisdiction in the Courts of Weld County, Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this PERMANENT GRANT OF AVIGATION EASEMENT as of the day and year first above written.

[SIGNATURES ON FOLLOWING PAGES]

GRANTORS:

By: _____

Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF)

Subscribed and sworn to before me this ____ day of _____, 2013, by
_____ as _____
_____.

Witness my hand and official seal.
My Commission expires _____.

Notary Public

GRANTEE:
TOWN OF ERIE, a Colorado municipal corporation

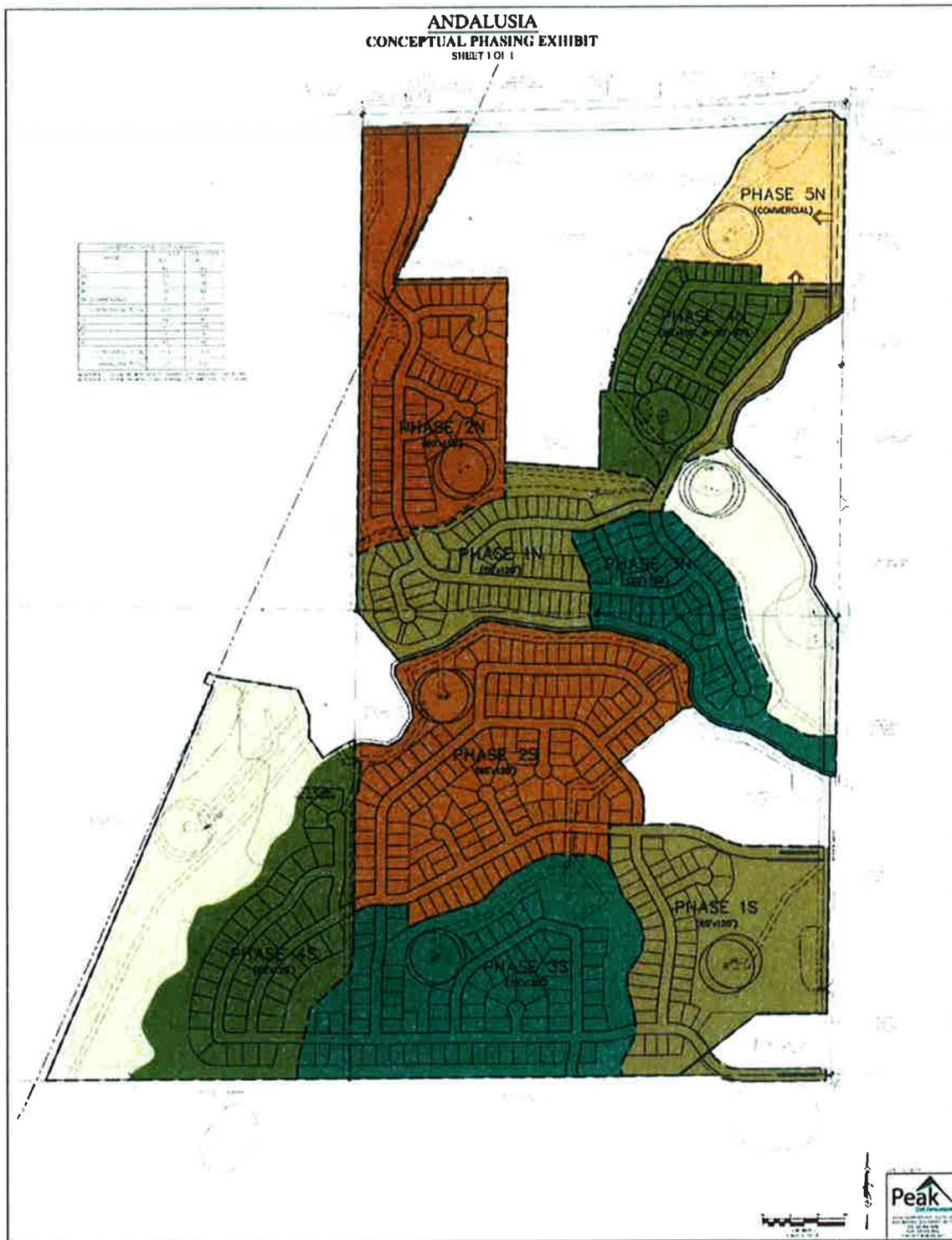
By: _____
_____, Mayor

ATTEST:

By: _____
_____, Town Clerk

EXHIBIT F

CONCEPTUAL PHASING EXHIBIT



TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **CONSENT AGENDA:**
Consideration of Ordinance 06-2014: An Ordinance Zoning The Andalusia Property, Pursuant To The Petition Of The Owners Thereof, To CC – Community Commercial and LR – Low Density Residential, Providing For The Effective Date Of This Ordinance; And Setting Forth Details In Relation Thereto. Second Reading.

PURPOSE: A Public Hearing to consider a request for CC – Community Commercial and LR – Low Density Residential zoning as the Initial Zoning on the Andalusia property.

CODE: Erie Municipal Code, Title 10

DEPARTMENT: Community Development

PRESENTER: Todd Bjerkaas, Senior Planner

FISCAL	Cost as Recommended:	n/a
INFORMATION:	Balance Available:	n/a
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF
RECOMMENDATION: Approval of Ordinance 06-2014; an Ordinance Zoning the Andalusia property to CC – Community Commercial and LR – Low Density Residential.

PLANNING
COMMISSION
RECOMMENDATION: Not applicable

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

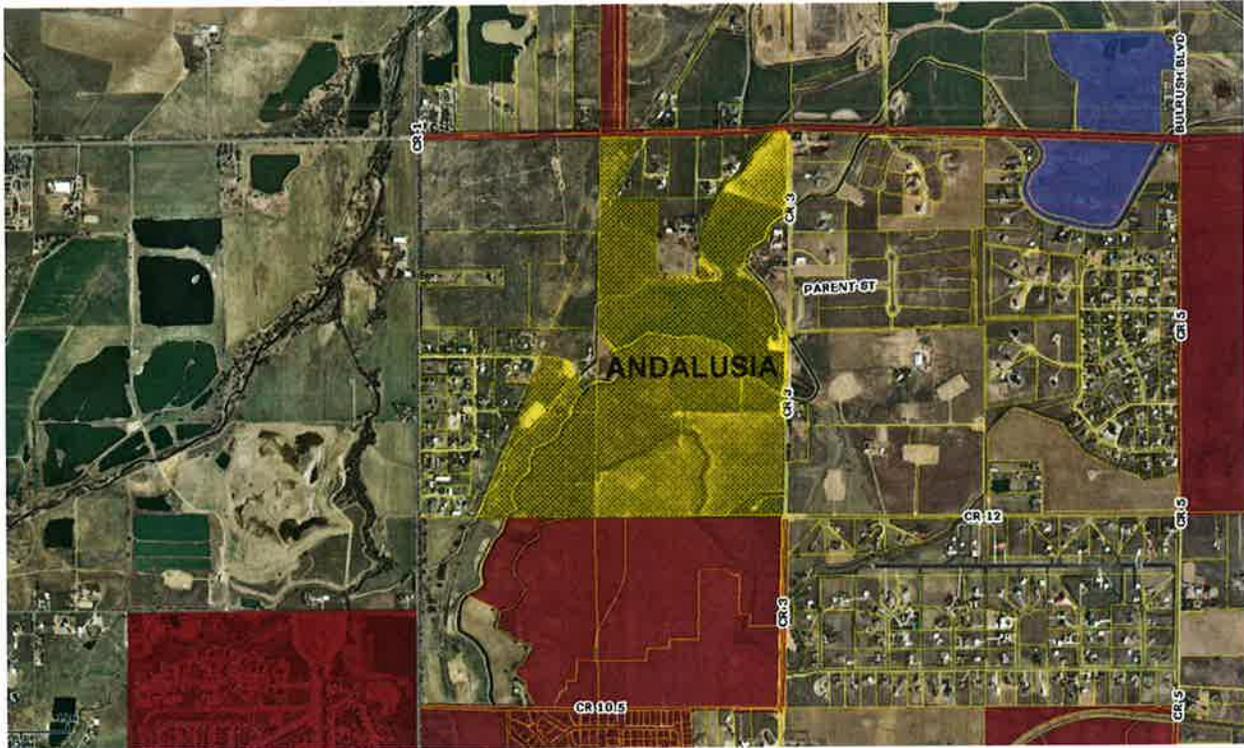
GENERAL INFORMATION:

Land Owners: Saeed & Forough Moradi Family Trust, K.A.C. Holdings LLC, a Delaware limited liability company;
Mike & Shahla Moradi Trust;
Katina Moradi Trust;
Albert Moradi Trust;
Caroline Moradi Trust; and
I & J PARTNERSHIP, LLP, a California Limited liability partnership

**Applicant/
Representative:** Jerry Bouldin
3733 Florentine Circle
Longmont, CO 80503
(303) 881-4952

Location:

The site is located at the southwest corner of State Highway 52 and Weld County Road (WCR) 3 and is generally described as a portion of Section 6, Township 1 North, Range 68 West of the 6th Principle Meridian. The site is highlighted in yellow below, the incorporated areas of the Town of Erie are shown in red and the incorporated areas of Frederick are shown in purple. The uncolored areas represent lands located in unincorporated Weld County.



BACKGROUND INFORMATION:

In August 2013, the authorized representative of the owners of the Andalusia property filed an application to annex the property into the Town of Erie. On December 10, 2013 the Board of Trustees held a Substantial Compliance hearing on the Andalusia Annexation Petition and accepted the petition through the approval of Resolution 13-160. This resolution established January 28, 2014 as the Public Hearing date for adopting Findings of Fact in favor of the proposed annexation.

Concurrent with the Annexation application, the owner filed an Initial Zoning application with the Town requesting initial zoning of CC – Community Commercial and LR – Low Density Residential for the Andalusia property.

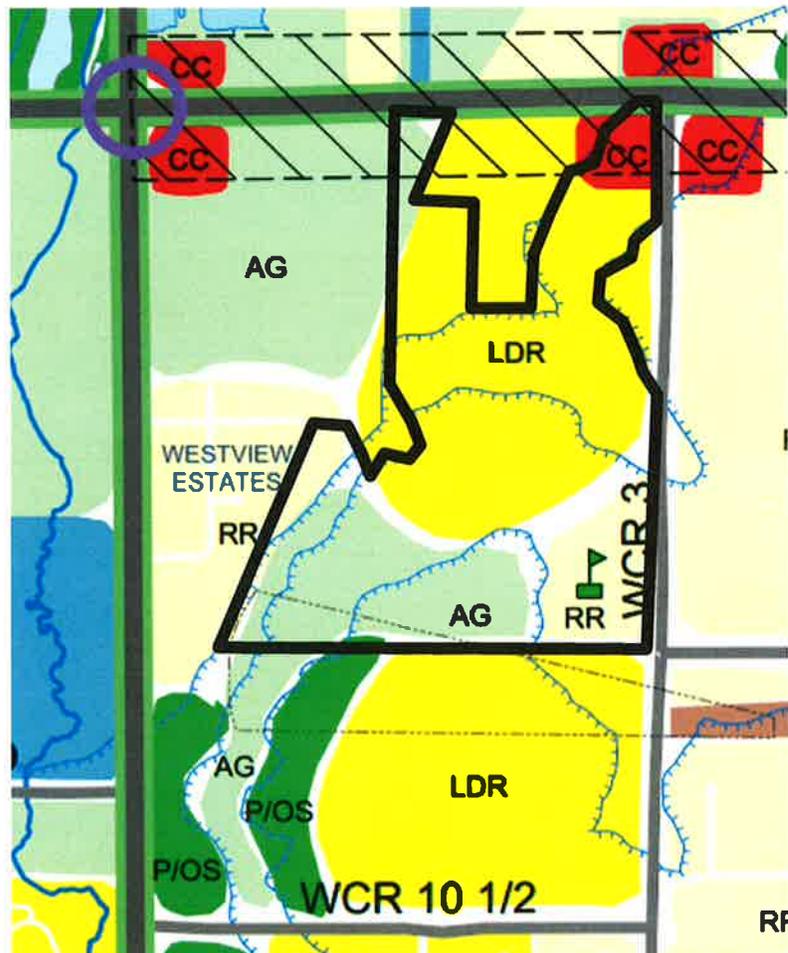
- Existing Zoning:** A – Agricultural (Unincorporated Weld County)
- Existing Land Use:** Vacant land with agricultural and oil/gas operations
- Size:** 318.99 acres
- Proposed Zoning:** CC – Community Commercial (8.4 acres)
LR – Low Density Residential
- Gross Project Density:** 1.9 dwelling units per acre

Adjacent Zoning and Comprehensive Plan Land Use Designations:

	CURRENT ZONING	ERIE COMPREHENSIVE PLAN – LAND USE MAP DESIGNATION
NORTH	AG/OS – Agriculture/Open Space PLI – Public Lands & Institutions A – Agricultural (Unincorporated Weld County)	RR – Rural Residential CC – Community Commercial
SOUTH	SR – Suburban Residential LR – Low Density Residential	LDR – Low Density Residential
EAST	PUD – Planned Unit Development (Unincorporated Weld County) A – Agricultural (Unincorporated Weld County)	RR – Rural Residential CC – Community Commercial
WEST	R-1 – Low Density Residential (Unincorporated Weld County) A – Agricultural (Unincorporated Weld County)	RR – Rural Residential AG - Agriculture

2005 Comprehensive Plan Designation:

The Comprehensive Plan land use designations for Andalusia include CC, LDR, AG and RR.



Site Characteristics:

The site is characterized by undulating terrain that gently slopes from the south and central areas to the east, north, and west consisting of native grasses and agricultural fields and multiple oil and gas well facilities. Three irrigation ditches/laterals cross the property from the southwest to the north and east. The few mature trees that exist on the property are located along these ditches/laterals.

Soils and Geology:

Preliminary geotechnical and geological investigations were conducted on the property in 2005 indicating expansive soils and other conditions typical for the area. According to Colorado Geological Survey (CGS) maps the property is not undermined. The 100 year flood plain touches the northwest corner of the property adjacent to State Highway 52.

As part of any future site specific development applications (preliminary/final plats and site plans), more detailed subsurface studies will be required that will be reviewed by appropriate officials prior to final approvals.

Drainage:

Most of the southwestern portion of the site drains to the west property line of the property, while the central, eastern, and northern portions of the site drain to the existing drainage way travelling northwest through the property.

As part of any future site specific development applications (preliminary/final plats and site plans), more detailed drainage studies will be required that will be reviewed by appropriate officials prior to final approvals.

Ecological:

A General Ecological Resource Survey was conducted on the property in 2005 indicating no areas of concern.

PROVISION OF SERVICES AND AMENITIES

Schools:

The St. Vrain Valley School District (“SVVSD”) Master Plan indicates an elementary school site to be dedicated on the property. The applicant and school district entered into an agreement in 2008 in which the property owners agreed to dedicate a 10 acre school site on the property to satisfy the requirements of the Town’s Intergovernmental Agreement with SVVSD for dedications of lands or payments of a fee-in-lieu of land dedication.

Fire Protection:

The Mountain View Fire Protection District (“MVFPD”) provides fire and emergency medical services to the subject property. MVFPD does not object to the proposal provided future development meets MVFPD requirements.

Police Services:

The Erie Police Department will provide police services to the subject property.

Water and Sanitation:

The Town of Erie will provide both potable water and wastewater services to the property as outlined in the annexation agreement. In addition, the owner may provide a raw water system that would provide irrigation to open space, parks and common areas.

At the time of building permit, raw water fees are collected that allows the Town to purchase water rights ensuring an adequate water supply for potable water services.

Dry Utilities:

Utility service providers for the subject property are Xcel Energy for electric, Source Gas for natural gas, and Century Link for telephone services. Utility easements for these providers will be established as part of final plat approvals.

Street Right-of-Ways:

All proposed streets are required to be constructed to meet the Town’s “Standards and Specifications for Design and Construction of Public Improvements.”

Dedication of internal right-of-ways will be required as part of any final plat approvals. Additional right-of-way dedications will be required for WCR 3, WCR 12, and SH 52. These dedications will occur as outlined in the annexation agreement.

Open Space and Parks:

In the conceptual sketch plan, the applicant is showing 90 acres of private pocket park and open space areas and 44 acres of public open space. Additionally, the applicant is anticipating dedicating a 7 acre Neighborhood Park to the Town and paying a fee-in-lieu of land dedication for the Community Park requirements.

As part of any future site specific development applications (preliminary/final plats), more detailed analysis of the number of units proposed and the parks and open space dedication requirements of the UDC will be reviewed by appropriate officials prior to final approvals

Trails and Connectivity:

The conceptual sketch plan illustrative indicates multiple trails connecting throughout the property. Spine trails as planned for in the Town’s Parks, Recreation, Open Space, and Trails (PROST) Master Plan will be identified during the Preliminary Plat process.

STAFF ANALYSIS AND FINDING’S:

Compliance with Town Standards:

Staff finds the application in compliance with Section 7.4, Initial Zoning, of Title 10 of the Municipal Code.

- 1. THE INITIAL ZONING WILL PROMOTE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE;

Staff Comment: The applicant has adequately demonstrated the carrying capacity of the subject property and that the proposed density can reasonably be accomplished in a manner that will promote the general health, safety and welfare of the general public.

- 2. THE INITIAL ZONING IS GENERALLY CONSISTENT WITH THE TOWN’S COMPREHENSIVE MASTER PLAN AND THE PURPOSES OF THIS UDC;

Staff Comment: The proposed zoning districts are in compliance with the Town of Erie Comprehensive Plan recommended land uses.

- 3. THE INITIAL ZONING IS GENERALLY CONSISTENT WITH THE STATED PURPOSE OF THE PROPOSED ZONING DISTRICT;

Staff Comment: The proposed zoning districts are consistent with the stated purpose of the requested zone districts in the Municipal Code.

- 4. ADEQUATE FACILITIES AND SERVICES (INCLUDING STREETS AND TRANSPORTATION, WATER, GAS, ELECTRIC, POLICE AND FIRE PROTECTION, AND SEWAGE AND WASTE DISPOSAL, AS APPLICABLE) WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING ADEQUATE LEVELS OF SERVICE TO EXISTING DEVELOPMENT;

Staff Comment: All of the above referenced services are available to the subject property. Impacts on existing development, assuring that adequate levels of service are maintained, will be mitigated through subsequent subdivision approval procedures.

5. THE INITIAL ZONING IS NOT LIKELY TO RESULT IN SIGNIFICANT ADVERSE IMPACTS UPON THE NATURAL ENVIRONMENT, INCLUDING AIR, WATER, NOISE, STORM WATER MANAGEMENT, WILDLIFE, AND VEGETATION, OR SUCH IMPACTS WILL BE SIGNIFICANTLY MITIGATED;

Staff Comment: No significant adverse impacts to the above referenced qualities/conditions are anticipated. The subsequent subdivision approval process will require the mitigation of impacts to these qualities/conditions if and /when they are encountered based on required studies/reports.

6. THE INITIAL ZONING IS NOT LIKELY TO RESULT IN SIGNIFICANT ADVERSE IMPACTS UPON OTHER PROPERTY IN THE VICINITY OF THE SUBJECT PROPERTY;

Staff Comment: No significant adverse impacts are anticipated to properties in the vicinity of the subject property.

7. FUTURE USES ON THE SUBJECT TRACT WILL BE COMPATIBLE IN SCALE WITH USES ON THE OTHER PROPERTIES IN THE VICINITY OF THE SUBJECT PROPERTY; AND

Staff Comment: The Comprehensive Plan designates preferred land uses for all lands within the Towns' Planning Area Boundary. Compatibility between adjacent land uses are considered in determining the preferred land uses. In addition, more detailed goals and polices of the Comprehensive Plan will be addressed through subsequent subdivision approval procedures.

8. THE INITIAL ZONING IS GENERALLY CONSISTENT WITH THE TOWNS' ECONOMIC DEVELOPMENT GOALS AND OBJECTIVES IN BRINGING POSITIVE GROWTH AND SUSTAINABLE REVENUES TO THE TOWN.

Staff Comment: The initial zoning of CC and LR supports the property's future uses in providing commercial properties along the SH 52 corridor with new residential areas in close proximity.

Public Notice:

Notice of this Public Hearing has been provided in compliance with the UDC as follows:

Published in the Colorado Hometown News: January 8, 2014
Property Posted as required: January 7, 2014
Letters to Adjacent Property Owners: January 10, 2014

Staff Recommendation:

Approval of Ordinance 06-2014; an Ordinance Zoning the Andalusia property to CC – Community Commercial and LR – Low Density Residential.

Staff Review:

____ Town Attorney
____ Town Clerk
 Community Development Director
____ Finance Director
____ Police Chief
____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- A. Ordinance 06-2014
- B. Andalusia Zoning Map
- C. Application Materials
- D. Referral Agency Summary and Responses

ATTACHMENT A

ORDINANCE NO. 06-2014

Series of 2014

AN ORDINANCE ZONING THE ANDALUSIA PROPERTY, PURSUANT TO THE PETITION OF THE OWNERS THEREOF, TO CC – COMMUNITY COMMERCIAL AND LR – LOW DENSITY RESIDENTIAL; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, a request for Initial Zoning has been filed by Jerry Bouldin, authorized representative of the owners, 3733 Florentine Circle, Longmont, Colorado, 80503, for the zoning of the following described real property (“Property”) simultaneously with the annexation of the Property to the Town, to wit:

See “Exhibit A,” attached hereto and incorporated herein by this reference.

WHEREAS, the initial zoning of land while annexation is underway is authorized by C.R.S. 31-12-115; and

WHEREAS, a public hearing was held on said request in combination with the requested annexation of the property on January 28, 2014; and

WHEREAS, it is the opinion of the Board of Trustees that it is desirable and necessary that the described Property be zoned CC – Community Commercial and LR – Low Density Residential in accordance with application for initial zoning and Title 10 of the Municipal Code of the Town of Erie, Colorado;

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Erie, Colorado; that;

Section 1. The above described Property is hereby zoned CC – Community Commercial and LR – Low Density Residential. All activities conducted on the Property shall be in conformance with the applied zoning as identified in Title 10 of the Municipal Code of the Town of Erie, Colorado.

Section 2. The official zone district map of the Town of Erie, dated November 15, 2013, shall be amended by the designation of the above described Property as CC – Community Commercial and LR – Low Density Residential.

Section 3. Effective Date. This ordinance shall take effect thirty (30) days after publication following final passage.

Section 4. Validity. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Ordinance. The Board of Trustees hereby declares that it would have passed the Ordinance including each part, section,

subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

**INTRODUCED, PASSED, ADOPTED AND APPROVED AND ORDERED
PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF
ERIE THIS 11TH DAY OF FEBRUARY, 2014.**

PUBLISHED IN FULL ON THE ___ DAY OF _____, 2014.

**TOWN OF ERIE, COLORADO, a
Colorado municipal corporation**

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

EXHIBIT A

PLANNING AREA 1 ZONING AREA LR DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST AND SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 6, WHENCE THE SOUTHEAST CORNER OF SECTION 6 BEARS S89°42'40"W, SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS LEGAL DESCRIPTION;

THENCE S89°42'30"W, A DISTANCE OF 839.81 FEET TO THE POINT OF BEGINNING;

THENCE S89°42'30"W, A DISTANCE OF 1787.55 FEET;
THENCE S89°42'40"W, A DISTANCE OF 1647.93 FEET;
THENCE N22°39'51"E, A DISTANCE OF 2365.48 FEET;
THENCE N67°22'22"W, A DISTANCE OF 50.05 FEET;
THENCE N22°40'04"E, A DISTANCE OF 59.87 FEET;
THENCE S67°25'35"E, A DISTANCE OF 50.09 FEET;
THENCE S80°15'43"E, A DISTANCE OF 443.26 FEET;
THENCE S23°04'58"E, A DISTANCE OF 153.98 FEET;
THENCE S00°15'02"E, A DISTANCE OF 124.61 FEET;
THENCE S33°25'39"E, A DISTANCE OF 134.89 FEET;
THENCE N57°52'44"E, A DISTANCE OF 139.18 FEET;
THENCE N64°36'06"E, A DISTANCE OF 57.25 FEET;
THENCE S00°51'59"W, A DISTANCE OF 24.35 FEET;
THENCE N79°47'10"E, A DISTANCE OF 47.75 FEET;
THENCE S81°35'50"E, A DISTANCE OF 136.58 FEET;
THENCE N58°49'25"E, A DISTANCE OF 77.11 FEET;
THENCE N30°51'40"E, A DISTANCE OF 131.96 FEET;
THENCE N04°53'43"W, A DISTANCE OF 73.50 FEET;
THENCE N27°55'30"W, A DISTANCE OF 195.02 FEET;
THENCE N03°00'50"E, A DISTANCE OF 42.19 FEET;
THENCE N46°57'59"E, A DISTANCE OF 37.17 FEET;
THENCE N72°00'35"E, A DISTANCE OF 248.85 FEET;
THENCE N54°27'25"E, A DISTANCE OF 246.47 FEET;
THENCE N81°49'14"E, A DISTANCE OF 52.31 FEET;
THENCE S80°10'38"E, A DISTANCE OF 385.87 FEET;
THENCE N86°40'18"E, A DISTANCE OF 259.78 FEET;
THENCE S73°57'14"E, A DISTANCE OF 317.00 FEET;
THENCE S56°00'46"E, A DISTANCE OF 134.68 FEET;
THENCE S28°29'02"E, A DISTANCE OF 71.83 FEET;
THENCE S02°27'55"W, A DISTANCE OF 137.37 FEET;
THENCE S24°34'35"E, A DISTANCE OF 72.69 FEET;
THENCE S46°36'55"E, A DISTANCE OF 110.75 FEET;
THENCE S62°06'45"E, A DISTANCE OF 77.59 FEET;
THENCE S76°44'50"E, A DISTANCE OF 157.92 FEET;
THENCE S60°44'15"E, A DISTANCE OF 142.31 FEET;
THENCE S55°43'39"E, A DISTANCE OF 132.96 FEET;
THENCE S63°16'15"E, A DISTANCE OF 182.81 FEET;
THENCE S74°35'40"E, A DISTANCE OF 48.40 FEET;
THENCE S74°35'40"E, A DISTANCE OF 30.98 FEET;

THENCE S89°00'51"E, A DISTANCE OF 30.00 FEET;
THENCE S00°59'09"W, A DISTANCE OF 1310.93 FEET;
THENCE N89°00'51"W, A DISTANCE OF 60.00 FEET;
THENCE S89°42'05"W, A DISTANCE OF 389.95 FEET;
THENCE S51°32'39"W, A DISTANCE OF 543.53 FEET TO THE POINT OF BEGINNING;

CONTAINING 187.29 ACRES MORE OR LESS.

PLANNING AREA 2 ZONING AREA LR DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE EAST 1/2 OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 6, WHENCE THE SOUTHEAST CORNER OF SECTION 6 BEARS S89°42'40"W, SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS LEGAL DESCRIPTION;

THENCE S01°03'10"W, A DISTANCE OF 97.77 FEET;
THENCE S88°56'50"E, A DISTANCE OF 30.00 FEET;
THENCE S01°03'10"W, A DISTANCE OF 1075.08 FEET TO THE POINT OF BEGINNING;
THENCE S01°03'10"W, A DISTANCE OF 168.49 FEET;
THENCE N88°56'50"W, A DISTANCE OF 30.00 FEET;
THENCE S56°40'44"W, A DISTANCE OF 288.49 FEET;
THENCE S36°35'52"W, A DISTANCE OF 75.58 FEET;
THENCE S19°07'05"W, A DISTANCE OF 137.44 FEET;
THENCE S41°33'42"W, A DISTANCE OF 79.21 FEET;
THENCE S60°12'47"W, A DISTANCE OF 170.92 FEET;
THENCE S38°34'05"W, A DISTANCE OF 70.07 FEET;
THENCE S15°44'24"W, A DISTANCE OF 139.99 FEET;
THENCE S42°36'21"E, A DISTANCE OF 446.86 FEET;
THENCE S26°39'46"E, A DISTANCE OF 322.56 FEET;
THENCE S08°56'04"E, A DISTANCE OF 50.00 FEET;
THENCE S07°11'03"W, A DISTANCE OF 98.7445 FEET;
THENCE S31°53'13"E, A DISTANCE OF 189.23 FEET;
THENCE S30°18'39"E, A DISTANCE OF 62.72 FEET;
THENCE S00°59'09"W, A DISTANCE OF 851.84 FEET;
THENCE N74°35'40"W, A DISTANCE OF 30.98 FEET;
THENCE N74°35'40"W, A DISTANCE OF 48.40 FEET;
THENCE N63°16'15"W, A DISTANCE OF 182.81 FEET;
THENCE N55°43'39"W, A DISTANCE OF 132.97 FEET;
THENCE N60°44'15"W, A DISTANCE OF 142.31 FEET;
THENCE N76°44'50"W, A DISTANCE OF 157.92 FEET;
THENCE N62°06'45"W, A DISTANCE OF 77.59 FEET;
THENCE N46°36'55"W, A DISTANCE OF 110.75 FEET;
THENCE N24°34'35"W, A DISTANCE OF 72.69 FEET;
THENCE N02°27'55"E, A DISTANCE OF 137.37 FEET;
THENCE N28°29'02"W, A DISTANCE OF 71.83 FEET;
THENCE N56°00'46"W, A DISTANCE OF 134.68 FEET;
THENCE N73°57'14"W, A DISTANCE OF 317.00 FEET;
THENCE S86°40'18"W, A DISTANCE OF 259.78 FEET;
THENCE N80°10'38"W, A DISTANCE OF 385.87 FEET;
THENCE S81°49'14"W, A DISTANCE OF 52.31 FEET;

THENCE S54°27'25"W, A DISTANCE OF 246.47 FEET;
THENCE S72°00'35"W, A DISTANCE OF 248.85 FEET;
THENCE N39°21'34"W, A DISTANCE OF 372.27 FEET;
THENCE N00°52'37"E, A DISTANCE OF 2670.97 FEET;
THENCE N88°48'32"E, A DISTANCE OF 480.96 FEET;
THENCE N89°25'02"E, A DISTANCE OF 94.16 FEET;
THENCE S17°59'27"W, A DISTANCE OF 218.48 FEET;
THENCE 726.73 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID
ARC SUBTENDED BY A RADIUS OF 6721.00 FEET, A CENTRAL ANGLE OF 06°11'43", AND
A CHORD BEARING S26°55' 51"W, 726.38 FEET;
THENCE N89°32'00"E, A DISTANCE OF 610.38 FEET;
THENCE S01°00'46"W, A DISTANCE OF 1019.39 FEET;
THENCE S85°34'36"E, A DISTANCE OF 518.97 FEET;
THENCE N00°57'20"E, A DISTANCE OF 431.19 FEET;
THENCE S88°59'54"E, A DISTANCE OF 44.61 FEET;
THENCE N11°58'59"E, A DISTANCE OF 320.20 FEET;
THENCE N26°06'51"E, A DISTANCE OF 358.61 FEET;
THENCE N26°40'48"E, A DISTANCE OF 243.07 FEET;
THENCE N50°28'33"E, A DISTANCE OF 84.11 FEET;
THENCE N70°51'16"E, A DISTANCE OF 60.24 FEET;
THENCE N52°54'59"E, A DISTANCE OF 83.66 FEET;
THENCE N36°35'20"E, A DISTANCE OF 137.66 FEET;
THENCE S66°02'35"E, A DISTANCE OF 187.92 FEET;
THENCE S50°07'33"E, A DISTANCE OF 98.34 FEET;
THENCE S02°31'13"W, A DISTANCE OF 351.78 FEET;
THENCE S89°44'32"E, A DISTANCE OF 478.43 FEET TO THE POINT OF BEGINNING,
CONTAINING 117.48 ACRES, MORE OR LESS;

PLANNING AREA 3 ZONING AREA COMMERCIAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE EAST 1/2 OF SECTION 6, TOWNSHIP 1 NORTH,
RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF
COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 6, WHENCE THE SOUTHEAST
CORNER OF SECTION 6 BEARS S89°42'40"W, SAID LINE FORMING THE BASIS OF
BEARINGS FOR THIS LEGAL DESCRIPTION;

THENCE S01°03'10"W, A DISTANCE OF 97.78 FEET TO THE POINT OF BEGINNING;

THENCE S88°56'50"E, A DISTANCE OF 30.00 FEET;
THENCE S01°03'10"W, A DISTANCE OF 906.59 FEET;

THENCE N89°44'32"W, A DISTANCE OF 478.43 FEET;
THENCE N02°31'13"E, A DISTANCE OF 351.78 FEET;
THENCE N50°07'33"W, A DISTANCE OF 98.34 FEET;
THENCE N66°02'35"W, A DISTANCE OF 187.91 FEET;
THENCE N36°35'20"E, A DISTANCE OF 94.89 FEET;
THENCE N25°26'18"E, A DISTANCE OF 132.78 FEET;
THENCE N42°56'20"E, A DISTANCE OF 81.73 FEET;
THENCE N47°41'42"E, A DISTANCE OF 281.91 FEET;
THENCE N84°49'01"E, A DISTANCE OF 25.56 FEET;
THENCE N85°23'52"E, A DISTANCE OF 216.66 FEET;
THENCE S44°00'58"E, A DISTANCE OF 70.70 FEET;

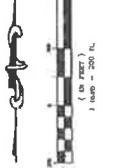
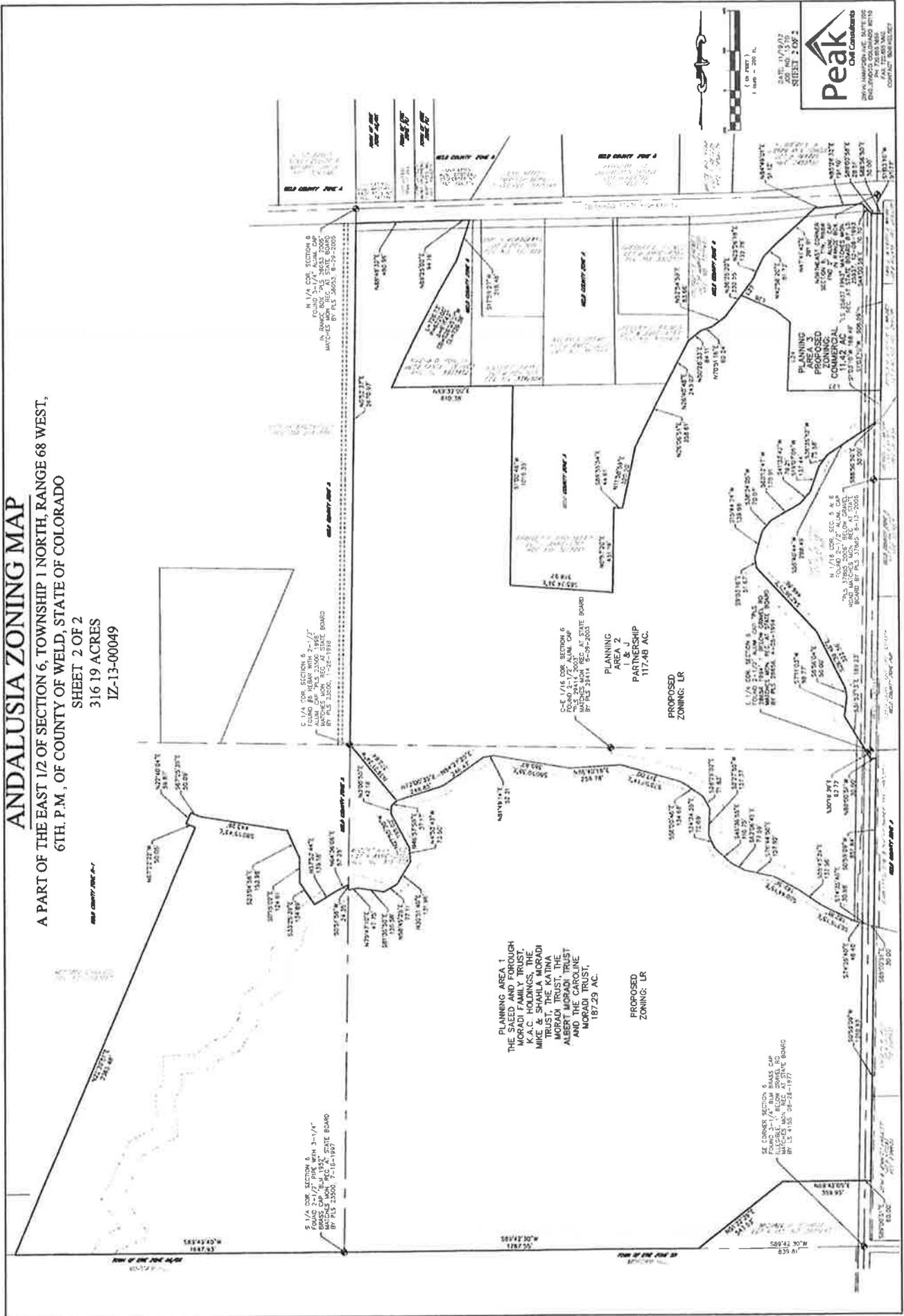
THENCE S89°00'58"E, A DISTANCE OF 28.51 FEET TO THE POINT OF BEGINNING,
CONTAINING 11.42 ACRES, MORE OR LESS.

ATTACHMENT B

ANDALUSIA ZONING MAP

A PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST,
6TH, P.M., OF COUNTY OF WELD, STATE OF COLORADO

SHEET 2 OF 2
316.19 ACRES
IZ-13-00049



ATTACHMENT C



TOWN OF ERIE

Community Development Department – Planning Division
645 Holbrook Street – PO Box 750 – Erie, CO 80516
Tel: 303.926.2770 – Fax: 303.926.2706 – Web: www.erieco.gov

LAND USE APPLICATION

Please fill in this form completely. Incomplete applications will not be processed.

STAFF USE ONLY		
FILE NAME:		
FILE NO:	DATE SUBMITTED:	FEES PAID:

PROJECT/BUSINESS NAME: ANDALUSIA

PROJECT ADDRESS: WEST OF WCR 3 & SO. OF STATE HWY. 52 & NO. OF WCR 12 ALIGNMENT

PROJECT DESCRIPTION: ANNEXATION & ZONING TO LR & CC TO ALLOW DEVELOPMENT OF A MAX. OF 632 RESIDENTIAL UNITS IN A VARIETY OF LOT SIZES AND ASSOCIATED OPEN SPACE, PARK, AND TRAILS USES, A SCHOOL SITE, AND A COMMUNITY COMMERCIAL AREA

LEGAL DESCRIPTION (attach legal description if Metes & Bounds)
Subdivision Name: SEE ATTACHED EXHIBIT 'A'

Filing #: _____ Lot #: _____ Block #: _____ Section: S 1/2 & E 1/2 6 Township: 1 N Range: 68 W

OWNER (attach separate sheets if multiple)
Name/Company: MIKE MORADI ETAL & I & J PARTNERSHIP, LP

Contact Person: c/o JERRY BOULDIN

Address: 3733 FLORENTINE CIRCLE

City/State/Zip: LONGMONT, CO 80503

Phone: 303-881-4952 Fax: 303-485-1017

E-mail: JSBOU76@AOL.COM

AUTHORIZED REPRESENTATIVE

Company: KIRBY SMITH & ASSOC. INC.

Contact Person: KIRBY SMITH

Address: 6201 SO. HUDSON CT.

City/State/Zip: CENTENNIAL, CO 80121

Phone: 303-694-9484 Fax: 303-694-9272

E-mail: KSAKIRBY@AOL.COM

MINERAL RIGHTS OWNER (attach separate sheets if multiple)
Name/Company: SEE ATTACHED EXHIBIT 'B'

Address: _____

City/State/Zip: _____

MINERAL LEASE HOLDER (attach separate sheets if multiple)
Company: SEE ATTACHED EXHIBIT 'B'

Address: _____

City/State/Zip: _____

LAND-USE & SUMMARY INFORMATION

Present Zoning: WELD CO. 'A' AGRICULTURE

Proposed Zoning: 'LR' LOW DENSITY RES., 'PLI' PUB. LAND & INST. & 'CC' COMMUNITY COMM.

Gross Acreage: 316.19

Gross Site Density (du/ac): 1.99 DU/AC.

Lots/Units Proposed: 632 MAX.

Gross Floor Area: 120,000 S.F.

SERVICE PROVIDERS

Electric: XCEL ENERGY

Metro District: T.B.D.

Water (if other than Town): _____

Gas: SOURCE GAS

Fire District: MOUNTAIN VIEW

Sewer (if other than Town): _____

PAGE TWO MUST BE SIGNED AND NOTARIZED

DEVELOPMENT REVIEW FEES

ANNEXATION		SUBDIVISION	
<input checked="" type="checkbox"/> Major	\$ 4000.00	<input type="checkbox"/> Sketch Plan	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor	\$ 2000.00	<input type="checkbox"/> Preliminary Plat	\$ 2000.00 + 40.00 per lot
<input type="checkbox"/> Deannexation	\$ 1000.00	<input type="checkbox"/> Final Plat	\$ 2000.00 + 20.00 per lot
COMPREHENSIVE PLAN AMENDMENT		<input type="checkbox"/> Minor Subdivision Plat	\$ 2000.00
<input type="checkbox"/> Major	\$ 3000.00	<input type="checkbox"/> Minor Amendment Plat	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor	\$ 1200.00	<input type="checkbox"/> Road Vacation	\$ 1000.00
ZONING/REZONING		<input type="checkbox"/> Road Vacation	\$ 1000.00
<input checked="" type="checkbox"/> Rezoning	\$ 1700.00 + 10.00/ac.	SITE PLAN	
<input type="checkbox"/> PUD Rezoning	\$ 1700.00 + 10.00/ac.	<input type="checkbox"/> Residential	\$ 1400.00 + 10.00 per unit
<input type="checkbox"/> PUD Amendment	\$ 1700.00 + 10.00/ac.	<input type="checkbox"/> Non-Resi. (>10,000 sq. ft.)	\$ 2200.00
<input type="checkbox"/> Major PD Amendment	\$ 1700.00 + 10.00/ac.	<input type="checkbox"/> Non-Resi. (>2,000 sq. ft.)	\$ 1000.00
<input type="checkbox"/> Minor PD Amendment	\$ 500.00	<input type="checkbox"/> Non-Resi. (<2,000 sq. ft.)	\$ 200.00
SPECIAL REVIEW USE		<input type="checkbox"/> Amendment (major)	\$ 1100.00
<input type="checkbox"/> Major	\$ 1000.00	<input type="checkbox"/> Amendment (minor)	\$ 350.00
<input type="checkbox"/> Minor	\$ 400.00	VARIANCE \$ 600.00	
<input type="checkbox"/> Oil & Gas	\$ 1200.00	SERVICE PLAN \$10,000.00	

All fees **include** both Town of Erie Planning & Engineering review. These fees **do not include** referral agency review fees, outside consultant review fees, or review fees incurred by consultants acting on behalf of staff. See Town of Erie Municipal Code, Title 2-10-5, **COMMUNITY DEVELOPMENT FEES.**

The undersigned is fully aware of the request/proposal being made and the actions being initiated on the referenced property. The undersigned understand that the application must be found to be complete by the Town of Erie before the request can officially be accepted and the development review process initiated. The undersigned is aware that the applicant is fully responsible for all reasonable costs associated with the review of the application/request being made to the Town of Erie. Pursuant to Chapter 7 (Section 7.2.B.5) of the Unified Development Code (UDC) of the Town of Erie, applicants shall pay all costs billed by the Town for legal, engineering and planning costs incurred by staff, including consultants acting on behalf of staff, necessary for project review. By this acknowledgement, the undersigned hereby certify that the above information is true and correct.

Owner: Jerry Bouldin

Date: 8-13-13

Owner: _____

Date: _____

Applicant: Jerry Bouldin

Date: 8-13-13

STATE OF COLORADO)
County of Boulder) ss.

The foregoing instrument was acknowledged before me this 13th day of August, 2013 by Leon Jerry Bouldin AKA Jerry Bouldin

My commission expires: July 2, 2017
Witness my hand and official seal.

Maureen C. Simpson
Notary Public



Exhibit 'A'

Andalusia Annexation
Legal Description

A PARCEL OF LAND SITUATED IN SECTION 6, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 6 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6 TO BEAR SOUTH 89°42'30" WEST, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION;

THENCE N89°54'46"W, A DISTANCE OF 30.01 FEET;
THENCE N00°59'09"E, A DISTANCE OF 335.99 FEET;
THENCE S89°42'05"W, A DISTANCE OF 389.95 FEET;
THENCE S51°32'39"W, A DISTANCE OF 543.53 FEET;
THENCE S89°42'30"W, A DISTANCE OF 1787.55 FEET;
THENCE S89°49'40"W, A DISTANCE OF 1647.93 FEET;
THENCE N22°39'51"E, A DISTANCE OF 2365.48 FEET;
THENCE N67°22'22"W, A DISTANCE OF 50.05 FEET;
THENCE N22°40'04"E, A DISTANCE OF 59.87 FEET;
THENCE S67°25'35"E, A DISTANCE OF 50.09 FEET;
THENCE S80°15'43"E, A DISTANCE OF 443.26 FEET;
THENCE S23°04'58"E, A DISTANCE OF 153.98 FEET;
THENCE S00°15'02"E, A DISTANCE OF 124.61 FEET;
THENCE S33°25'39"E, A DISTANCE OF 134.89 FEET;
THENCE N57°52'44"E, A DISTANCE OF 139.18 FEET;
THENCE N64°36'06"E, A DISTANCE OF 57.25 FEET;
THENCE S00°51'58"W, A DISTANCE OF 24.35 FEET;
THENCE N79°47'10"E, A DISTANCE OF 47.75 FEET;
THENCE S81°35'50"E, A DISTANCE OF 136.58 FEET;
THENCE N58°49'25"E, A DISTANCE OF 77.11 FEET;
THENCE N30°51'40"E, A DISTANCE OF 131.96 FEET;
THENCE N04°53'43"W, A DISTANCE OF 73.50 FEET;
THENCE N27°55'30"W, A DISTANCE OF 195.02 FEET;
THENCE N03°00'50"E, A DISTANCE OF 42.18 FEET;
THENCE N46°57'59"E, A DISTANCE OF 37.17 FEET;
THENCE N39°21'34"W, A DISTANCE OF 372.64 FEET;
THENCE N00°53'13"E, A DISTANCE OF 1353.95 FEET;
THENCE N00°52'37"E, A DISTANCE OF 1316.75 FEET;
THENCE N88°48'32"E, A DISTANCE OF 480.96 FEET;
THENCE N89°25'02"E, A DISTANCE OF 94.16 FEET;
THENCE S17°59'27"W, A DISTANCE OF 218.48 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 6721.00 FEET AND AN ARC LENGTH OF 726.73 FEET, THROUGH A CENTRAL ANGLE OF 06°11'43" AND A CHORD BEARING OF S26°55'51"W AND A CHORD LENGTH OF 726.38 FEET;

THENCE N89°32'00"E, A DISTANCE OF 610.38 FEET;
THENCE S01°00'46"W, A DISTANCE OF 1019.39 FEET;
THENCE S85°34'36"E, A DISTANCE OF 518.97 FEET;
THENCE N00°57'20"E, A DISTANCE OF 431.19 FEET;
THENCE S88°59'54"E, A DISTANCE OF 44.61 FEET;
THENCE N11°58'59"E, A DISTANCE OF 320.20 FEET;
THENCE N26°06'51"E, A DISTANCE OF 358.61 FEET;
THENCE N26°40'48"E, A DISTANCE OF 243.07 FEET;
THENCE N50°28'33"E, A DISTANCE OF 84.11 FEET;
THENCE N70°51'16"E, A DISTANCE OF 60.24 FEET;
THENCE N52°54'59"E, A DISTANCE OF 83.66 FEET;
THENCE N36°35'20"E, A DISTANCE OF 232.55 FEET;
THENCE N25°26'18"E, A DISTANCE OF 132.78 FEET;
THENCE N42°56'20"E, A DISTANCE OF 81.73 FEET;

THENCE N47°41'42"E, A DISTANCE OF 281.91 FEET;
THENCE N84°49'01"E, A DISTANCE OF 51.12 FEET;
THENCE N85°28'32"E, A DISTANCE OF 191.10 FEET;
THENCE S44°00'58"E, A DISTANCE OF 70.70 FEET;
THENCE S89°00'58"E, A DISTANCE OF 28.51 FEET;
THENCE S88°56'50"E, A DISTANCE OF 30.00 FEET;
THENCE S01°03'10"W, A DISTANCE OF 1363.28 FEET;
THENCE S01°02'46"W, A DISTANCE OF 1385.88 FEET;
THENCE S00°59'09"W, A DISTANCE OF 2537.09 FEET;
THENCE N89°54'46"W, A DISTANCE OF 30.00 FEET;

CONTAINING 14,354,337 SQUARE FEET OR 329.53 ACRES MORE OR LESS.

AND EXCLUDING LOT A RE-1516 UNDER RECEPTION NUMBER 2611753 MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6 THENCE N70°28'41" W, A DISTANCE OF 31.63 FEET TO THE POINT OF BEGINNING;

THENCE N31°50'47"W, A DISTANCE OF 194.22 FEET;
THENCE N07°11'03"E, A DISTANCE OF 98.77 FEET;
THENCE N08°56'04"W, A DISTANCE OF 50.00 FEET;
THENCE N26°39'46"W, A DISTANCE OF 322.56 FEET;
THENCE N42°36'21"W, A DISTANCE OF 446.86 FEET;
THENCE N09°03'16"W, A DISTANCE OF 51.67 FEET;
THENCE N15°44'24"E, A DISTANCE OF 139.99 FEET;
THENCE N38°34'05"E, A DISTANCE OF 70.07 FEET;
THENCE N60°12'47"E, A DISTANCE OF 170.91 FEET;
THENCE N41°33'42"E, A DISTANCE OF 79.21 FEET;
THENCE N19°07'05"E, A DISTANCE OF 137.44 FEET;
THENCE N36°35'52"E, A DISTANCE OF 75.58 FEET;
THENCE N56°40'33"E, A DISTANCE OF 252.15 FEET;
THENCE S01°02'50"W, A DISTANCE OF 1643.58 FEET TO THE POINT OF BEGINNING;

CONTAINING 459,230 SQUARE FEET OR 10.54 ACRES MORE OR LESS.

CONTAINING NET A TOTAL AREA OF 13,895,107 SQUARE FEET OR 318.988 ACRES MORE OR LESS.

Exhibit 'B'

Andalusia

Mineral Owners

None (entitled to notice)

Mineral Leasehold Owners

EnCana Oil & Gas (USA) Inc.
Attn: DJ Land Department
370 17th Street, Suite 1700
Denver, CO 80202

K.P. Kauffman Company, Inc. (KPK)
1675 Broadway, Suite 2800
Denver, CO 80202

Kerr-McGee Oil & Gas Onshore LP
Attn: Land Manager/Wattenberg
1099 18th Street, #1500
Denver, CO 80202



Kirby Smith & Associates, Inc.

August 19, 2013
Revised December 5, 2013

Town of Erie Board of Trustees
645 Holbrook Street
Erie, CO 80516

Re: Letter of Interest - For The Andalusia – Annexation

Dear Members of the Board,

On behalf of the owners of the Andalusia property we hereby request to annex 318.98 acres into the Town of Erie and zone the property from Weld County Agricultural 'A', to Town of Erie Low Density Residential 'LR' and Community Commercial 'CC'. After receiving approval of annexation and zoning the property will be subdivided through the Preliminary and Final Plat processes. If all goes well, it is anticipated that lot sales could commence in 2015.

The property is located immediately west of WCR 3 and south of State Highway 52. This property consists of land that has been farmed for many years. The property's highest points occur along the southern property line paralleling the adjacent Cottonwood Extension Ditch, and the remainder of the land slopes away gently in three directions from there, but primarily to the north and west. Three irrigation canals meander across the property (the Cottonwood Extension Ditch, the Lower Boulder Ditch, and the Boulder And Weld County Ditch), generally following the contours of the land. The primary natural drainage for this area bisects the property from southeast to northwest, across the northern portion of the property.

Primary access to the property is proposed to be provided by three full movement local street intersections from Weld County Road 3 on the eastern portion of the site, and one access from State Highway 52. An additional right-in-right-out access point is also proposed for the commercial area. Internal residential circulation will consist of public local streets. The development is proposed to consist of a maximum of 632 residential dwelling units (including one housing type and two housing type variations), at an overall gross density of 1.99 DU/Ac., and 8.4 acres of community commercial uses at the corner of St. Highway 52 and WCR 3. These proposed land uses are in compliance with the Town's Comprehensive Plan. The requested zoning would allow for development of a high quality residential community, including a total of 142.55 acres (45.0%) for park and open space uses. In addition, a 10 acre elementary school site has been identified for dedication to the Saint Vrain School District. The Town's open space requirements are to be met with several large open space areas and a contiguous open space corridor for the Town of Erie's regional Spine Trail along the western portion of the property. Park dedication requirements are to be met with a combination of land dedications (for a Neighborhood Park and various Pocket Parks along the proposed internal open space corridors) and cash-in-lieu (for Community parks). Within the common open space areas the developer proposes to construct multi-use trails to connect to adjacent properties to the west, south, east and north. Including a portion of the regional trail system (Spine Trail) called for in the Erie Comprehensive Plan.

We feel that this proposed annexation and development will be an asset to the Town of Erie and we look forward to working with the Town's staff and officials to create a diverse well designed neighborhood and supporting commercial uses that will complement the Town's community framework.

Sincerely,

Kirby Smith

ANDALUSIA

Development Proposal Overview Narrative

The narrative that follows contains general development information and describes the existing site conditions and the proposed development for the Andalusia property.

Owners/Applicant/Representative:

Owners/Applicant: Mike Moradi, et al, and
I & J Partnership LP
c/o Jerry Bouldin, Authorized Representative
3733 Florentine Circle
Longmont, CO 80503

Representative: Kirby Smith & Associates, Inc., Mr. Kirby Smith -303-694-9484
6201 So. Hudson Ct.
Centennial, CO 80121

Proposed Development Overview:

1. *The General concept of the development, land uses, character, and zoning.* - The subject property includes 316.19 acres of vacant agricultural land with three irrigation ditches crossing the site. The property is zoned "A" Agricultural, in Weld County. Primary access to the property is proposed to be provided by three full movement local street intersections from Weld County Road 3 on the eastern portion of the subject site and one from St. Highway 52 near the northwest corner of the property. An additional right-in-right-out access point is also proposed for the commercial area in the northeast corner of the property. Primary internal circulation for the residential areas will consist of public local streets (and possibly private alleys in select areas). The Conceptual Sketch Plan proposes 149.22 acres for residential uses (including one housing types and two housing type variations), and 8.4 acres for commercial uses. Initial zoning is proposed as Low Density Residential (LR), at an overall gross density of 1.99 DU/Ac. and Community Commercial. These proposed land uses are in compliance with the Town's Comprehensive Plan. The requested zoning would allow for development of a high quality residential community, including a diverse mix of single family detached lifestyle opportunities. The Conceptual Sketch Plan includes approximately 48 custom home terraced lots of 10,600 to 14,600 sf +; 80 single family lots of 9,000 to 9,2000 sf; 200 proposed 7,800 to 8,000 sf lots; 72 patio homes on 7,000 to 7,200 sf lots; 107 single family homes on 6,300 to 6,600 sf lots; as well as 68 residential lots of 4,500 to 5,000 sf.. In addition 8.4 acres of supporting community commercial uses are proposed along St. Highway 52. The commercial areas are envisioned to allow for various supporting service uses for the nearby residents and those traveling along St. Highway 52. Such businesses may include, but not be limited to, various retail commercial uses, or professional service office uses. The only existing buildings on this property are the small storage or temporary structures associated with oil and gas facilities. Dependent upon required approval processing, development could commence in early 2015, with lot sales commencing later that year. Development and build-out is estimated to occur in approximately 6 phases and be completed with in six to seven years.

2. *The approximate size and type of any common open space and semi-public uses, including parks, recreation areas, school sites and similar uses.* - The Conceptual Sketch Plan proposes to provide a total of 142.55 acres (45.0%) for park and open space uses. In addition, a 10 acre elementary school site (as indicated in the Town's Comp Plan) has been identified for dedication to the Saint Vrain School District. The Town's open space dedication requirement of 29.98 acres is proposed to be met with 44.40 acres consisting of the unencumbered portions of the open space areas along the western portion of the property, including trail corridors which will provide a contiguous route for the Town's regional "spine trail" from the property's south property line to Hwy 52. Park dedication requirements are proposed to be met with a combination of land dedications (7.5 acres or more of Pocket Park - playground or other type of amenity along the proposed open space corridors – 0.88 acres required, and 7.0 acres of neighborhood park – 5.29 acres required) and cash-in-lieu payment, with credit for excess

neighborhood park dedication (1.71 ac.) applied to the Community park requirement (8.82 ac.). Within the various park and common open space areas the developer proposes to construct multi-use trails to connect to adjacent properties to the west, south, east and north. This includes a portion of the regional "spine trail" system called for in the Erie Comprehensive Plan.

3. *The vehicular circulation system of local, collector and arterial streets.* – Vehicular access to the residential portions of this property is planned via three Local Residential street connections to Weld County Road 3, and one to St. Highway 52 in the northwest portion of the site. Most internal vehicular circulation within residential areas will consist of public streets, constructed to Town of Erie standards for Local Street cross sections, within a rights-of-ways of 60 feet. Private alleys may also be used to provide access to select residential areas. Vehicular access to the commercial area will share one full movement intersection at WCR 3 with the residential access and also proposes an additional right-in-right-out access point from WCR 3. Internal circulation within the commercial use area will be provided by private access drives.

4. *Source of public water and sewer systems* – Water and sewer service for the proposed development are proposed to be provided by the Town of Erie. Water service would entail connection of this property to the Town's current water system. Current Town water system facilities exist within WCR 3 and Hwy 52. The intent would be to extend these water lines to the site to create a looped water system to service the project. Current Town sanitary sewer facilities include a trunk line extending northeasterly along the west property line of this site and extending to Erie's treatment plant. The intent is to create a sanitary sewer system within the proposed development that will flow into the existing adjacent Town trunk line.

5. *How storm water drainage is to be handled on the site.* – Storm water will be managed according to the Town's engineering standards. Detention ponds will be constructed, as necessary per Town standards, and water will be released at historic rates. A Phase I Drainage Report is included with this zoning application. A Preliminary Grading and Drainage Report to be prepared with the Preliminary Plat submittal.

6. *Unique natural features within the proposed development.* - This property consists of land that has been actively farmed for many years. The property's highest points occur along the southern property line paralleling the adjacent Cottonwood Extension Ditch, and the remainder of the land slopes away gently in three directions from there, but primarily to the north and west. Three irrigation canals meander across the property (the Cottonwood Extension Ditch, the Lower Boulder Ditch, and the Boulder And Weld County Ditch), generally following the contours of the land. The primary natural drainage for this area bisects the property from southeast to northwest, across the northern portion of the property.

7. *Commercial mineral deposits and oil and gas facilities are located within the PUD* - Files with the Colorado Geologic Survey (CGS) indicate that this site is located within the Boulder/Weld Coal Field, however no known mine workings were referenced beneath the subject property. Oil and gas drilling windows have been identified and 20 existing oil and gas wells are currently in operation on the site as shown on the plan. Based on existing surface use agreements and previously directionally drilled wells the two unused drilling windows that remain on this site will not have any wells located in them in the future. Existing and proposed Oil and gas well setbacks have been shown at a radius of 150' on this Sketch Plan, in compliance with the Town Code and Colorado Oil and Gas Commission Regulations, and will be in compliance with all Colorado Oil and Gas Commission Regulations. Mineral Owners are Mike Moradi, et al, and Olde Word Development, LLC; and Mineral Leasehold Owners include Kerr-McGee Rocky Mountain Corp., K.P. Kaufman Co., Inc. and EnCana Energy Resources, Inc.. Surface Use Agreements are currently in place with K.P. Kaufman, a Surface Use Agreement has been negotiated with EnCana and is currently being finalized, and we are in discussions with Kerr-McGee. We anticipate final surface use agreements prior to platting.

ANDALUSIA Assessment Impact Report

The following items are assessed to their impact on the Town of Erie's services.

Water

Current Town water system facilities exist within WCR3 and Highway 52. The intent would be to connect to these water lines to create a looped water system to service the project. The water demands generated by this development are as follows.

Domestic Water Design Criteria:

The domestic water demands were calculated in accordance with the *Town of Erie Standards and Specifications for Design Construction of Public Improvements*. The following criteria were used:

- A. Average daily flow is equal to 140 gallons per person per day for residential.
- B. Average daily flow for the Parks is 2232 GPO/Acre.
- C. Minimum residual pressure during maximum day demand plus fire flow is equal to 20 psi.
- D. Minimum residual pressure during the maximum day or peak hour demand is equal to 40 psi.
- E. Peak hour to average day ratio is 3.9:1 for residential and 6.0:1 for the parks.
- F. Maximum day to average day ratio is 2.6:1 for residential and 2.0:1 for commercial.
- G. For water mains, valves shall be placed no more than 600' apart.
- H. Fire Flow demands are as follows:
 - 1,000 gpm for 1 and 2 family units
 - 1,500 gpm for multi-family units
 - 2,500 gpm for commercial development

Domestic Water Demand

Unit Type	No. of Units (DU's or Acres)	People/ Units	Equiv. People	Avg Day Demand per Person/Acre (gdp)	Avg Day Demand (gdp)	Max Day Factor	Max Day Demand (gdp)
Res.	632	2.67	1687	140	236,242	2.6	614,228
Comm.	8.4	n/a	n/a	1,651	13,868	2.0	27,737
School	1	525	525	10	5250	2.0	10,500
Park	16.5	n/a	n/a	2,232	36,828	2.0	73,656

Sanitary Sewer

Sanitary sewer will tie into the Town's treatment plant interceptor along Andalusia's West property line. This development is proposing to connect to the Town of Erie's sanitary sewer system and demands generated by this development are as follows.

Sanitary Sewer Design Criteria:

The domestic sanitary sewer loading rates were calculated in accordance with the *Town of Erie Standards and Specifications for Design Construction of Public Improvements*. The following criteria were used:

- A. All pipe capacities are calculated using Manning's Equation (n=0.015).
- B. The minimum pipe size is 8-inch.
- C. To keep cleansing velocities above 2 feet per second (fps), the minimum pipe slopes are as follows: 8"-0.40%; 10"-0.28%; 12"- 0.22%.
- D. Depths of flow do not exceed 80 percent of full capacity.

E. All proposed residential unit flows are based on 2.67 occupants per household and 90 gallons per day per person.

F. Park (P) flows are based on 50 gallons/acre/day.

G. Peak flows are calculated using a maximum peaking factor of 5.

Sanitary Sewer Demand

Unit Type	No. of Units (DU's or Acres)	People/ Units	Equiv. People	Avg Flow Per Person/Acre (gdp)	Domestic Avg Daily Flow (gdp)	Peak Factor	Peak Flow (gdp)	Peak Design Flow (mgd)
Res.	632	2.67	1687	90	151,870	5	759,348	0.759
Comm.	8.4	n/a	n/a	1000	8,400	5	42,000	0.042
School	10.0	525	525	13	6,825	5	34,125	0.034
Park	16.5	n/a	n/a	50	825	5	4,125	0.004

Natural Gas

Natural gas is located in Weld County Road 3. This development proposes to be served by Source Gas. Gas demands generated by this development are as follows.

Gas Design Criteria:

The domestic gas loading rates were calculated in accordance with estimated values utilized for similar developments. It is estimated that each proposed unit will have a 100,000 btu furnace and a 40,000 btu water heater installed, resulting in a demand of 140,000 btu per unit. 632 units are equivalent to 88.5 million btu's for the residential portion of this development.

Electric

Electric is located along Weld County Road 3. United Power will serve the development and demand generated by this development is as follows.

Electric Design Criteria:

The domestic electric loading rates were calculated in accordance with estimated values utilized for the residential portion of similar developments. The following criteria were used:

An estimate of peak electric consumption is 6 Kv-a /unit. 632 units are equivalent to 3792 Kv-a.

Telephone

Telephone service is located along Weld County Road 3. The development is to be served by Century Link Communications.

Schools

The development is within the St. Vrain Valley School District. This development will generate the following number of students and land contribution requirements.

Elementary School:	122 students	2.32 acres
Middle School:	57 students	1.87 acres
High School:	<u>61 students</u>	<u>2.52 acres</u>
	240 students	6.71 acres

Streets

This development will adhere to the Town of Erie's street standards and will align its' streets with adjacent development's streets as appropriate. The Town will provide the maintenance of the streets within the development after construction to Town specifications and acceptance by the Board of Trustees.

Drainage

This development will adhere to the Town of Erie's drainage standards. See Drainage Report for further information.

Law Enforcement

Law enforcement is to be provided by the Town of Erie Police Department.

Fire Protection

The Mountain View Fire Protection District will serve this development. This development proposes to adhere to the Town of Erie's road standards enabling adequate access for the fire district. No special fire district needs are anticipated with this development.

Market Conditions

See Market Feasibility Study by The Genesis Group (under separate cover).

Market Segment - The Andalusia property is located in the Boulder County-Erie submarket which has historically been one of the stronger residential submarkets in the Denver Metro Area. Current and future trends point towards the continued strength in the general location where the property resides. Erie has experienced a steady rate of residential building activity. The most recent building permit data details that as of May 2013, builders within Weld County have pulled a total of 547 permits for single family detached homes. The permit total for 2013 is 135% ahead of 2012. As compared recent years, by the end of April 2013 Erie had issued 100 new permits to date compared to a total of 108 for all of 2011. Major projects such as Vista Ridge and Erie Commons have seen a steady stream of permits issued as these projects have continued to mature.

Andalusia, given its location and variety of lot sizes, is planned to be developed by builders who will build in several "move-up", production, semi-custom to custom home market segments. Other projects in the general vicinity that would be competition in the \$300,000 and above market include Cottonwood Vista, Candlelight Ridge and portions of Vista Ridge. All of these projects are currently developed and are delivering product to the market. By the time Andalusia commences home sales, it is anticipated that these projects will be built-out, or nearly so, leaving less competition for the targeted market segments in near downtown Erie. The proposed commercial area is well located long St. Hwy. 52. Based upon existing and proposed residential development in the surrounding area, in conjunction with the ever increasing pass-by traffic along Hwy. 52 and WCR 3, as well as the lack of competing commercial uses within several miles will make these commercial sites highly desirable.

Conclusion – Andalusia is in a highly desirable location, is easily accessible and is within a highly regarded school district. The property will provide three housing types, and three different housing type variations within several targeted "move-up" markets. Andalusia will be a unique development within Erie as depicted by its location, theme and character. Demand for the types of housing products proposed within Andalusia is expected to remain strong over the long term. As long as favorable market conditions exist, Andalusia is expected to maintain a strong residential absorption rate and support and sustain various commercial uses.

Economic Impact

Revenue to the Town of Erie from this proposed development will come in the form of building permit fees, development fees, use taxes and additional homeowner's property taxes. The Andalusia commercial development will provide additional sales tax revenue to the Town, and the development's resident population will also generate increased retail sales taxes.

ATTACHMENT D

REFERRAL RESPONSE SUMMARY (2/01)

Project Name/Type/Submittal Date: Andalusia Annexation and Initial Zoning 09-03-2013

AGENCY	Sent	Rec'd	Comments
ERIE:			
Com. Dev.	09/03	10/03	See Letter
Parks & Rec	09/03	9/11	See Letter
Public Works	09/03	10/02	See Letter
Public Review	09/03		
MTN. VIEW FIRE	09/03	9/18	See Letter
OIL & GAS:			
Molly S. Buchanan Esq.	09/03		
Anadarko Petroleum Com	09/03		
Anadarko Petroleum Corp	09/03	9/25	See Letter
K.P. Kaufmann Company	09/03		
EnCana	09/03		
Kerr-McGee RM Corp	09/03		
Kerr-McGee Gathering	09/03		
Noble Energy	09/03		
SCHOOL DISTRICT:			
St. Vrain Valley	09/03	10/24	No conflicts
WATER & DITCHES:			
NCWCD & Subdistrict	09/03	9/06	No conflicts



The Town of Erie
645 Holbrook St.
P.O. Box 750
Erie, CO 80516
(303) 926-2773
FAX (303) 926-2706

Applicant's Responses

To: Todd Bejerkas – Town of Erie Community Development Department
From: Kirby Smith, Kirby Smith & Assoc., Inc. & Bob Kelsey, Peak Civil Consultants
RE: Applicant's Responses to Town Staff comments
Date: 12/5/13

Memo

To: Kirby Smith
From: Todd Bjerkaas
Date: October 3, 2013
Re: AN-13-00048 Andalusia Annexation and IZ-13-00049 Andalusia Initial Zoning - Community Development Review Comments from Development Review Team Meeting on September 26, 2013.
cc: Jerry Bouldin, Marty Ostholthoff, Gary Behlen, Russell Pennington, Matt Wiederspahn, Jill Wait

Dear Kirby,

Thank you for submitting the Annexation and Initial Zoning applications for Andalusia. The Development Review Team (DRT) met on Thursday, September 26, 2013. In attendance were Community Development, Public Works, and Parks and Recreation. Following are the comments from the meeting that need to be addressed and/or changed for the Annexation and Initial Zoning. Redlines of the annexation, initial zoning, and subdivision concept plan sheets are attached as well for reference. All code references herein are for Title 10-UDC (Code). Note that Public Works and Parks comments are being included under separate cover.

Please provide a written response to each of the comments below with your re-submission.

ANNEXATION

Notebook Section 1 – Land Use Application

1. The application shows Proposed Zoning as LR, PLI, and CC. Please remove the PLI zone district from the Initial Zoning. See Initial Zoning comments. – ***Per meeting with staff 11/19/13 PLI zoning to be removed.***
2. The application shows Kinder Morgan as the utility provider of natural gas. Our maps show Source Gas as the purveyor. Please verify. – ***Updated as requested.***

Notebook Section 4 – Annexation Agreement

3. Staff is holding a separate internal meeting this week to discuss the details of the proposed Annexation Agreement. Comments are forthcoming. – ***Responses to staff's proposed***

Annexation Agreement revisions will be submitted by Cameron Grant under separate cover.

Notebook Section 6 – Impact Report

4. Remove the reference to the Public Land and Institutions (PLI) zone district in the report. See Initial Zoning comments. – ***PLI zoning references to be removed.***
5. For the “Municipal Services” section, please verify the providers of electricity, gas, and telephone. Staff understands the providers to be United Power, Source Gas, and CenturyLink respectively. – ***Updated as requested.***

Notebook Section 7 – Annexation Map

6. Sheet 1
 - a. Legal Description to be defined by metes and bounds. Include the additional WCR 3 right-of-way, identified in the redlines, in the legal description. – ***Updated as requested.***
 - b. The Vicinity Map is illegible in grayscale. Add lines for major roadways that are identified. Also add labels for WCR 5 and WCR 12 and move the WCR 3 label off of the Andalusia boundary hatch. – ***Updated as requested.***
 - c. In Note 5, add the percent contiguity of the area to be annexed to the existing Town limits. – ***Updated as requested.***
7. Sheet 2
 - a. Add WCR 3 right-of-way into the limits of Andalusia to be annexed as identified in the redlines. – ***Updated as requested.***
 - b. The 1”=200’-0” graphic scale of the full size set is not scaling correctly. The plans may have been printed “scaled to fit.” In the resubmittal, please submit scaled hard copies. – ***Updated as requested.***
8. Sheet 3
 - a. Add WCR 3 right-of-way into the limits of Andalusia to be annexed as identified in the redlines. – ***Updated as requested.***

INITIAL ZONING

Notebook Section 8 – Application

9. The application shows Proposed Zoning as LR, PLI, and CC. Please remove the PLI zone district from the Initial Zoning. If the boundaries of the area to be dedicated to the school district changes, the PLI zone district would require rezoning to adjust those boundaries. However, public schools are a permitted use in the LR district, so a LR zone district over the proposed school site would allow the developer and school district to adjust the school's boundaries without rezoning. – ***PLI zoning to be removed.***
10. The application shows Kinder Morgan as the utility provider of natural gas. Our maps show Source Gas as the purveyor. Please verify. – ***Updated as requested.***

Notebook Section 11 – Mineral Interest Ownership for Notification

11. What is the status of the SUAs with each of the three mineral leasehold owners? – ***SUA with KP Kaufman has been submitted to the Town previously. SUAs with Anadarko and Kerr Mcgee are in progress and will be provided prior to or with Sketch Plan submittal.***

Notebook Section 12 – Development Proposal Overview Narrative

12. Part 2. The narrative states that the applicant is proposing to receive credit for excess neighborhood park (NP) and pocket park (PP) dedication to be applied to the community park (CP) dedication requirement. If the Town determines a credit is appropriate, standard Town practice for credits are limited to the difference between the NP requirement (identified as 5.29 acres for Andalusia) and the minimum size for a NP of 7 acres. As a result, 1.71 acres could be credited towards the CP requirement of 8.82 acres. Excess pocket parks may not be credited

- towards CP requirements. As a result, the Board could consider a fee-in-lieu for the remaining CP dedication requirement of 7.11 acres. Add the required open space and park dedications to the Land Use Summary table on the conceptual bubble plan. – **Updated as requested.**
13. Part 7. The narrative states that 150' oil and gas well setbacks have been shown in the sketch plan. Please note that for future submittals (Sketch Plan, Preliminary Plat, etc.), the buffers will be reviewed for compliance with Surface Use Agreements and the Town's Unified Development Code. – **So noted.**

Notebook Section 16 – Concept Sketch Plan

14. The centerline of the southernmost subdivision entrance on WCR 3 is approximately 400' from the centerline of WCR 12. WCR 3 will be classified as a minor arterial roadway. The Town's Standards and Specifications state that the minimum spacing between intersection centerlines on an arterial is 1,000' (Section 524.00). Please contact the property owner in the southeast corner of the section as well as CDG for Morgan Hill to discuss realigning the southern entrance with WCR 12. Please refer to the Town's redlines for the concept. Benefits of this adjustment include:
- Adequate spacing between intersections on an arterial.
 - The existence of 60' of right-of-way along the section line on the south side of the subdivision. - **It's actually 30' each side of section line, and not a fee simple ROW. Applicant to contact CDG and Schmidt regarding dedication of their respective 30'.**
 - The relocation of the entry road on the front side of the Schmidt's property rather than the rear.
 - The potential for a land swap to give the Schmidt property a larger rear yard and greater distance from adjacent residences.
 - A greater amount of Parcel A may be used for the subdivision rather than right-of-way. – **Discussions are underway with the adjacent owners. The applicant will continue to work with the Town staff and adjacent owners to resolve this prior to Preliminary Plat submittal.**
15. The patio homes/terraced duplexes area (18.5 acres) in the southwest portion of the concept plan does not adhere to three of the Town's planning-related documents including the Natural Areas Inventory; the Parks, Recreation, Open Space and Trails (PROST) Master Plan; and the Comprehensive Plan. Please note that staff is still discussing this area of the concept plan, but included below is summary of the three plans along with our initial comments.
- Natural Areas Inventory.** The southwest section of the annexation area is identified as a High Overall Habitat Quality area (#15) in the Town of Erie's Natural Area Inventory. A portion of this area, between the Lower Boulder Ditch and the west property line, is already shown as open space in the concept plan and is in conformance with the Natural Areas Inventory. However, additional High Quality area is located between the Cottonwood Extension Ditch and the Lower Boulder Ditch west of the section line. This area is not shown with any conservation elements and instead shows patio homes or terraced duplexes occupying the entire area. – **This area is now proposed to contain large lot (10,600-14,600+ sq. ft.) custom home sites; with wide lots and side setbacks greater than the norm; and a significant open space setback along much of the Lower Boulder Ditch frontage. With regard to the Town's Natural Areas Inventory:**
 - The area west of the Cottonwood ditch in this area is believed to be one of the areas that was not visited by the consultant when preparing the study;**
 - Based on the natural areas ratings for this site 15 verses others (site 19 for example) the wetlands rating were higher for these dryland agricultural fields with ditches traversing them than they were for the primary regional drainage area containing cattails and various other wetland plant species, and area 19**

also serves as a migration or movement corridor; both site 15 and 19 have similar viewshed designations;

3. The development which is proposed in a small portion of site 15 retains a significant 540 ft. to 830 ft. wide open space corridor to the west, along the Lower Boulder and Boulder & Weld Ditches, encompassing over 35 acres; while at the same time preserving a corridor of 125 ft. to over 300 ft. along the Cottonwood Ditch; and

4. In a comparison of the study's summary ratings of the three ditches in this area, the Lower Boulder rated highest with a score of 28, followed by the Boulder & Weld which scored 27, and the Leyener/Cottonwood had a score of 24.

Therefore we believe that the significant open space corridors proposed for the southwest portion of this property serves to preserve the more highly valued areas and allows development on the actively cultivated dryland farm portion of this area.

- b. **PROST Master Plan.** The master plan shows the Town's Spine Trail traversing this section of the property approximately along the Cottonwood Extension Ditch and maintaining a substantial distance away from the Lower Boulder Ditch. The proposed location of the Spine Trail adjacent to the Lower Boulder Ditch is not feasible. – **We have met with the Lower Boulder Ditch Company Board, and are proposing a trail parallel to the ditch, but set back outside of their designated use areas so as not to interfere with their ongoing operations. We also have a trail corridor proposed along the Cottonwood Ditch that extends to the north that would also accommodate the Town's spine trail. We will continue to pursue our discussions with the ditch company and finalize trail location at Sketch Plan and Preliminary Plat.**
- c. **Comprehensive Plan Land Use Plan Map.** This area is called out as Agriculture in the Comprehensive Plan's Land Use Plan Map and there exists Agricultural/Open Space zoned land immediately to the south. The Morgan Hill subdivision is not proposing any development between the Cottonwood Extension Ditch and the Lower Boulder Ditch and is showing a wide open space area along the subdivision's western boundary. – **This area is now proposed to contain large lot (10,600-14,600+ sq. ft.) custom home sites; with wide lots and side setbacks greater than the norm; and a significant open space setback along much of the Lower Boulder Ditch frontage. With regard to the Town's comprehensive and open space potential maps:**
- 1. The Town's PROST Master Plan identified 20% of the Morgan Hill property as potential open space and their development plans propose approximately 37.7% for open space and parks; while the same master plan identified 49.7% of the Andalusia property as potential open space, and our plans propose approximately 45% open space;**
 - 2. The area between the Cottonwood Ditch and the Lower Boulder Ditch on the Morgan Hill property (zoned agricultural/os) is generally only 400 ft. to 500 ft. wide and has a large oil and gas well, separator and storage tank area just above the Cottonwood Ditch to the east, and is therefore a fairly difficult area to access and develop; whereas the area between these ditches on the Andalusia property is significantly wider and better suited for high value development;**
 - 3. The wide open space area along the Morgan Hill subdivision's western boundary contains approximately 38 acres (including the 15.25 ac. ag/open space zoned area); and the Andalusia property proposes a continuation of this similarly wide open space area along its southwestern boundary containing approximately 37 acres.**

Therefore we believe that the open space areas provided along the southwestern boundary of Andalusia property as well as those open spaces provided

throughout the property (which will allow for an internal trail system over 5.7 miles long, including approximately 1.5 miles of the Town's Spine Trail) serves to meet the spirit and intent of the Town's goals for open space preservation and enhancement.

- d. In summary, significant portions of the area bound by the Cottonwood Extension Ditch and the Lower Boulder Ditch should preserve substantial open space in accordance with the plans identified above, particularly in the steeper western portions of the above defined area. – **The applicant intends to meet with the Town staff to discuss the comments above in more detail and to illustrate the desire to share in the Town's vision for high quality open space preservation and enhancement, as this project proceeds toward Annexation and Zoning approval and on to the Sketch Plan.**
16. Staff does not believe the proposed trails along the Lower Boulder Ditch are feasible. Please provide an update on discussions with the Lower Boulder Ditch's requirements for trails, parks, and open space in close proximity to the ditch. – **We have met with the Lower Boulder Ditch Company Board, and have met with each of the other Ditch Companies, and they have agreed in principal to the proposed trail and utility crossings. Our discussions with the Lower Boulder Ditch Company Board are still in progress, and we are proposing a trail parallel to the ditch, but set back outside of their designated use areas so as not to interfere with their ongoing operations. We will finalize our discussions and all necessary crossing agreements prior to the time of preliminary platting.**
17. Provide a trail connection from the Neighborhood Park to the trail and open space network.
– **Updated as requested.**
18. Call out the open space and parks area that the applicant is anticipating dedicating to the Town in a different hatch or color. – **Updated as requested.**
19. Some areas of the proposed public open space are located on opposite sides of Oil and Gas Well Buffers. These residual areas should be removed from the dedication calculations. – **Per meeting with staff 11/19/13 oil and gas setback areas can be included in the proposed open space dedication areas, but the setback areas shall not be count toward open space credits.** In addition, access to the oil and gas wells appear to traverse across public open space. Further discussion is needed to resolve open space dedication requirements, maintenance, access, and trail conflicts. – **So noted. To be addressed at Sketch Plan and Preliminary Plat.**
20. Please note that access to wells may not be made off of local streets, cross local streets, and preferably not cross open space trails. – **Per meeting with staff 11/19/13 this is not true. The Town Code states "Subdivision shall minimize the need for access roads to connect to streets with local street classifications".** What routes has the developer provided for access to wells? A well access plan will be required at Sketch Plan (6.14.A.3.b). – **So noted. At Sketch plan we will identify which local streets will be impacted by well access needs and work with the Town staff to determine any increased asphalt section requirements.**
21. The proposed Neighborhood Park appears to count some hatched areas on the south and west portions of the well buffer. The Town will not accept residual areas such as these as dedications. – **Per meeting with staff 11/19/13 oil and gas setback areas can be included in the proposed open space dedication areas, but the setback areas shall not be count toward open space credits. Does this also apply to Neighborhood Park dedication?**
22. The future elementary school site and the neighborhood park should be adjacent to each other and not be separated physically by streets, ditches, oil and gas wells, etc. – **Per meeting with staff 11/19/13 the neighborhood park will remain across the street from the school site.**
23. All the pocket parks are located adjacent to ditches. Of particular concern is the park adjacent to the Lower Boulder Ditch. – **Pocket park locations have been revised as shown on updated Conceptual Sketch/Bubble Plan.**

Notebook Section 17 – Zoning Map

24. Eliminate the PLI zone district from the zoning map per the earlier comments. The legal descriptions on Sheet 1 will need to be adjusted. – **Updated as requested.**
25. Sheet 1 of the zoning map calls out the different zone districts as Parcels (A, B, C, and D). The use of the word “Parcel” to identify each area infers that the legal descriptions define divisions of land. The Parcel identifiers may also be confused with the existing ownership identified through Parcel A and Parcel B of the ALTA Survey and Title Documents. – **The Zone Districts have eliminated the use of the “Planning Areas 1,2 and 3” descriptions as requested.**
26. The BOARD OF TRUSTEES APPROVAL CERTIFICATE signature block identifies the map as the “Andalusia Annexation Map to the Town of Erie.” Change the title to “Andalusia Zoning Map.” – **Updated as requested.**
27. On Sheet 2, Town-owned property within Town limits that leads to the North Water Reclamation Facility is not shown. Also, the zone district north of Highway 52 is called out as Town of Erie Zone A. Most of that area should be identified as Weld County Zone A. The area leading to the treatment facility is partially Town of Erie Ag/OS and PLI. Please refer to the Town’s zoning map for zoning designations. – **Updated as requested.**

Since review is a cumulative process and dependent on various criteria, we reserve the right to provide further comment(s) and request additional information upon receipt of this requested information. Please do not hesitate to contact me at 303.926.2773 for further clarification or with any questions or concerns that you may have.

Sincerely,

Todd Bjerkaas
Senior Planner



Internal Memo

To: Jill Wait, Parks and Recreation Director
From: Gary Hegner, Parks Superintendent
Date: Wednesday, September 11, 2013
Subject: Andalusia Conceptual Plan Review General Comments

- 1) Show proposed tract ownership and maintenance responsibilities on Preliminary Plat Map.
- 2) Are overages in Open Space and Pocket Park lands sufficient to cover the deficiency in Community Park dedicated acreage (none)?
- 3) There is a trail head showing on the western edge of the property, within the open space. How will this trail head be accessed, due to Lower Boulder Ditch and the railroad property easements? Are there other potential trail head locations which could be utilized (or added) if this location's access proves difficult, such as the pocket park site? The selection of the NW open space parcel adjacent to SH52 is a good choice for the trail head location.
- 4) Potentially up to six (6) playgrounds are shown or may be placed in this project-there are three shown in open space parcels, as well as one each potentially placed at the school site, pocket park and neighborhood park. Staff recommends reducing this number to 3 or 4 sites, regardless of ownership, and utilizing funds towards more amenities such as athletic fields on site. Suggested playground sites include the school, the 7.2 acre pocket park, and one playground located within the west-central open space. If a 4th playground is added, place this in the northwest quadrant of the property to serve homes in that area, as both the school and neighborhood park are located furthest away from this quadrant. Consider eliminating playgrounds adjacent to ditches for safety reasons.
- 5) The neighborhood park is not currently shown connected to the property's trail network. Connect to open space via the southernmost linear 4.52 acre OS.
- 6) Open space near the northernmost street connection to WCR3 is somewhat 'serrate', with alternating open space and home sites. Make this more contiguous, which may allow 1-3 additional home lots in this space.
- 7) One positive comment: There are considerable trails showing within the site, which allow for numerous 'loop trail' opportunities for residents. Remember to follow 5% running slope and 2% cross-slope standards during Preliminary and Final Plat designs.
- 8) Staff recommends that the school site and neighborhood site be contiguous and not separated by a road which could create safety issues.
- 9) Have ditch companies agreed to the crossings shown in the plan?
- 10) Staff recommends consolidating Town owned and maintained open space on the west side of the property with the HOA maintaining all other suggested open space areas.



Applicant's Responses

To: Todd Bejerkas – Town of Erie Community Development Department & Matt Wiederspahn - Town of Erie Dept. Of Public Works
From: Kirby Smith, Kirby Smith & Assoc., Inc. & Bob Kelsey, Peak Civil Consultants
RE: Applicant's Responses to Town Staff comments
Date: 12/5/13

Memo

To: Todd Bjerkaas
From: Matt Wiederspahn, P.E., CFM, Development Engineer
Date: October 2, 2013
Subject: **Andalusia Annexation and Zoning Comments**
CC: Russell Pennington
Wendi Palmer

General Comment:

1. A preliminary utility plan and study for water and sanitary sewer needs to be provided. – ***Anticipated Sanitary Sewer and Water Demand Calculations are presented in the Annexation Impact Report. Per meeting with staff 11/19/13, the Preliminary Utility Study may be deferred until Sketch Plan. A water system secondary loop will be investigated at that time, but likely will occur through the Morgan Hill Property to the south.***

Comments for Annexation Map:

1. The legal description should be a metes and bounds description. – ***Updated as requested.***
2. A closure report will need to be provided with the next submittal. – ***Closure report included with re-submittal, as requested.***
3. This annexation needs to include annexing the WCR 3 right-of-way all the way from Highway 52 to WCR 12. – ***Updated as requested.***
4. Please include the following Contiguity Statement on the cover sheet: – ***Updated as requested.***

Contiguity Statement:

- Total perimeter of area considered for annexation = _____
 - One-sixth of total perimeter of area = _____
 - Perimeter of the area contiguous with existing town limits = _____
- The total contiguous perimeter is _____ %, which meets or exceeds the 1/6 area required.

Comments for Phase I Drainage Report:

1. Pond B1 is proposed to be on the potential school site. The area for the pond will not be included in the acreage required for the school dedication. – ***Pond B1 is not proposed to be within the 10 acre site dedicated to the school district.***

2. There is a note on the Drainage Plan for the channel in Basin ES that states: "This section of improved channel off-site construction shown for information only." This channel will need to be constructed prior to any development in Basins B and F. – ***This section of channel is off-site and not owned by the developer. Per meeting with staff on 11/19/13, this portion of the channel will need further coordination between the Town, off-site landowner, and developer during the subdivision process.***
3. Basin G1 is proposed to outfall into the roadside ditch along Highway 52. Highway 52 is a CDOT highway and any use of their drainage facilities will require their review and approval the drainage design. - ***The applicant will coordinate with CDOT as necessary as the drainage design progresses.***
4. The runoff calculations for Basins C1, C2, and F use values for single family detached residential. However, these basins are being proposed as multi-unit residential on the Concept Sketch Plan.- ***The Concept Sketch Plan has been revised, no multi-family product is anticipated at this time. The runoff calculations don't need to be revised.***
5. The Town follows the Urban Drainage and Flood Control District's (UDFCD) Criteria Manual for the sizing of detention ponds. The guidelines set forth are that empirical calculations can be used for drainage areas up to 90 acres, full spectrum detention calculations can be used for up to 160 acres, and the use of hydrograph flood routing procedures (e.g., using CUHP-generated hydrographs and reservoir routing calculations) used for over 160 acres. The proposed development is 332 acres not including off-site areas and so hydrograph flood routing procedures need to be used. - ***Not any one basin tributary to a proposed detention pond is greater than 160 acres, therefore the UDFCD full-spectrum spreadsheets are acceptable for the preliminary pond sizing presented within the Phase 1 report. Pond hydrograph routing (if necessary) will be completed with subsequent drainage reports. Developed flows from the site are anticipated to be detained prior to discharge into the regional drainageway. The Phase 1 Report accepts the Master Study flows calculated for the regional drainageway, therefore no additional routing is necessary at this stage.***

Comments for Traffic Study:

1. WCR 3 is classified as a minor arterial with a median. Any left turn movements will require turn lanes. In addition, all auxiliary lanes will need to follow CDOT access design standards for a road classification of a NR-B.
- ***So noted.***



MOUNTAIN VIEW FIRE RESCUE

9119 E County Line Road • Longmont, CO 80501

(303) 772-0710 • FAX (303) 651-7702

September 18, 2013

Mr. Todd Bjerkaas
Town of Erie Community Development
P.O. Box 750
Erie, CO 80516

Dear Mr. Bjerkaas:

I have reviewed the submitted material pertaining to annexation and initial zoning for the Andalusia project. The property named is within the boundaries of the Mountain View Fire Protection District and receives fire protection from the District. The Fire District does not object to the proposed annexation and subsequent development, provided the development is able to meet the requirements of the Fire District. All applicable codes as they pertain to water supply, fire hydrant locations, street designs, and any other applicable fire code requirements as they pertain to building construction must be met. Based on my review, I have the following comments regarding the plans submitted:

- A minimum fire flow of 1,000 gallons per minute, measured at a residual pressure of 20 pounds per square inch, is required for one- and two-family dwellings not exceeding 3,600 gross square feet. Larger residences require a minimum fire flow of 1,500 gallons per minute and may require more depending on the building size and type of construction as per the International Fire Code.
- A minimum fire flow of 2,500 gallons per minute, measured at a residual pressure of 20 pounds per square inch, is required for a commercial/light industrial subdivisions and may require more depending on the building size and type of construction. Required fire flow may be reduced by changing building types of construction or by installing built-in fire protection, such as a fire sprinkler system meeting the requirements of NFPA 13.
- Construction plans for the utilities, showing the configuration of streets, the location of fire hydrants, the size of water mains and available fire flows will need to be submitted to the Fire District for review and approval.
- Fire apparatus roads must be designed and maintained to support the imposed loads of fire apparatus (75,000 pounds) and must have a surface that provides all-weather driving capabilities. The developer needs to be made aware that all access roads must be approved before building permits and construction may begin.
- All buildings within the subdivision, including single-family residences, shall have a legible address that is clearly visible from the street fronting the property. Address numbers or letters shall contrast with their background.

- Plans for all buildings to be built within the subdivision, with the exception of single family residences, need to be submitted to the Fire District prior to the beginning of construction. All applicable fire codes, as they pertain to buildings and construction, must be met for each individual commercial lot. Final site plans for individual lots will need to be provided to the Fire District for review and approval as development proceeds.
- If there are existing gas/oil wells in the area, they need to be shown on plan submittals. Dedicated public streets shall not be within 75 feet of existing oil/gas wells, and buildings shall be constructed within 100 feet of existing oil/gas wells. Buildings that are classified as a place of assembly, institution or school shall not be constructed within 300 feet of existing oil/gas wells.
- The Fire District reserves the right to make further comments as development proceeds. Should the project be phased, phasing plans will need to be approved by the Fire District.

Nothing in this review is intended to authorize or approve of any aspect of this project that does not comply with all applicable codes and standards. We appreciate being involved in the planning process, should you have any questions please contact me at 303-772-0710 x 15.

Sincerely,



LuAnn Penfold
Fire Marshal

LMP/lp

cc: project file

lp09.03.13

Station #1
8119 Cnty Line Rd.
Longmont, CO
80501

Station #3
288 Palmer Ave.
Mead, CO
80542

Station #4
8500 Niwot Road
Niwot, CO
80544

Station #5
10911 Dobbin Run
Lafayette, CO
80026

Station #6
50 Bonanza Dr.
Erie, CO
80516

Station #7
161 Perry Lane
Dacono, CO
80514

Maintenance
100 So. Forest St
Dacono, CO
80514



September 25, 2013

VIA E-MAIL

tbjerkaas@erieco.gov

Town of Erie Community Development Department-Planning Division
Mr. Todd Bjerkaas, Planner
645 Holbrook, P.O. Box 750
Erie, CO 80516

Re: Andalusia Annexation and Initial Zoning Application
Mike Moradi, et al and I & J Partnership LP – Applicants
Township 1 North, Range 68 West, 6th P.M.
Section 6: part of the S/2 and E/2
Weld County, Colorado

Dear Mr. Bjerkaas:

This letter is being sent by Anadarko Petroleum Corporation on behalf of its subsidiary, Kerr-McGee Oil & Gas Onshore LP (“KMG”), to inform you that KMG is the owner of valid oil and gas leases underlying all or portions of Section 6, Township 1 North, Range 68 West in Weld County (“Property”), for which Mike Moradi and others, and also I & J Partnership LP (“Applicants”) are seeking approval of a petition for annexation and an application for initial zoning on the Property. KMG is submitting these comments timely, in accordance with State of Colorado and the Town’s procedural requirements.

KMG’s recorded oil and gas leases are real property interests entitling it to produce oil and gas from the leased lands. KMG has the right to produce from existing wells and to maintain, rework, recomplete, and fracture existing wells to enhance production, and to drill new wells to produce oil and gas, in accordance with applicable Colorado Oil and Gas Conservation Commission regulations and Colorado statutes. KMG’s oil and gas assets have significant value, and the company is consequently concerned about any development, surface use, plan of use, PUD, zoning or rezoning, or other action by the Town that would impair or preclude its ability to continue to produce and develop its leasehold property.

Kerr-McGee requests that the Town require that any future surface development plans for the Property incorporate and designate lands for ongoing and future oil and gas mineral development and expressly provide protection for KMG’s current and future wells, pipelines, gathering lines and related oil and gas facilities and equipment. The Town of Erie has a constitutional obligation to ensure that the property rights of mineral interest owners are

Town of Erie Community Development Department
Planning Division
Andalusia Annexation & Initial Zoning
September 25, 2013
Page 2

accommodated in its land use planning process. Approval of any surface development plan that forecloses the rights of mineral owners may be a compensable taking.

Please note that KMG does not object to the Applicants' Annexation petition and Initial Zoning application; provided that, the Town's approval includes and conforms to the information contained in the Application, reflecting the locations of existing wells and facilities with adequate setbacks. Although KMG does not object to the Application, however, KMG continues to assert its rights to make reasonable use of the surface of the Property to develop its oil and gas leasehold.

As you may know, KMG's preferred practice is to meet with surface owners and attempt to conclude a mutually acceptable surface use agreement. KMG wishes to inform the Town that it is currently in negotiations with the Applicants to negotiate such an agreement.

Please provide this notice letter to the members of the Planning Commission and the Board of Trustees for their consideration at any hearings on the Applications.

KMG reserves the right to make further additional comments on the Applications and any future applications that include all or any portion of the Property.

Please contact me at 303-655-4333 if you have any questions or comments about this matter. KMG hopes to conclude a mutually acceptable surface use agreement with the surface owners of the property and looks forward to working with the Town to accomplish the Town's land use planning goals.

Sincerely,
KERR-MCGEE OIL & GAS ONSHORE LP



Travis Book *TR*
Landman

cc: Kirby Smith & Associates, Inc. – Applicants' Representative
Mike Moradi et al & I & J Partnership, LP c/o Jerry Bouldin – Applicant
Molly Buchanan, Esq
Mike Brotzman – Kerr-McGee Gathering LLC
Wally Grant, Esq./for Applicant



October 24, 2013

Todd Bjerkaas
Town of Erie
645 Holbrook
Erie CO 80516

RE: Andalusia

Dear Todd:

Thank you for referring the Andalusia annexation to the School District. The District has reviewed the development proposal in terms of (1) available school capacity, (2) required land dedications and/or cash-in-lieu fees and (3) transportation/access considerations. After reviewing the above proposal, **the School District supports this proposed annexation.**

Detailed information follows in Attachment A. A land dedication is required with this project. The recommendation of the District noted above applies to the attendance boundaries current as of the date of this letter. These attendance boundaries may change in the future as new facilities are constructed and opened. If you have any further questions or concerns regarding this referral, please feel free to contact me via e-mail at kragerud_ryan@svvdsd.org or at the number below.

Sincerely,

Ryan Kragerud, AICP
Planning/GIS

Enc.: Attachment A – Specific Project Analysis
Cash-in-lieu chart

ATTACHMENT A - Specific Project Analysis

PROJECT: Andalusia Annexation

(1) SCHOOL CAPACITY

The Board of Education has established a District-wide policy of reviewing new development projects in terms of the impact on existing and approved school facilities within the applicable feeder system. Any residential project within the applicable feeder that causes the 125% school benchmark capacity to be exceeded within 5 years would not be supported. This determination includes both existing facilities and planned facilities from a voter-approved bond. The building capacity, including existing and new facilities, along with the impact of this proposal and all other approved development projects for this feeder is noted in the chart below.

ERIE ELEMENTARY

CAPACITY INFORMATION				CAPACITY BENCHMARK*									
				(includes projected students, plus development's student impact)									
School Level	Building Capacity	Stdts. Oct-12	Std. Impact	2013-14		2014-15		2015-16		2016-17		2017-18	
				Stdts	Cap.	Stdts	Cap.	Stdts	Cap.	Stdts	Cap.	Stdts	Cap.
Elementary	564	310	122	334	59%	383	68%	613	109%	613	109%	671	119%
Middle (EMS)	840	612	56	623	74%	614	73%	660	79%	710	85%	781	93%
High (EHS)	896	758	60	770	86%	844	94%	891	99%	958	107%	1050	117%
Total	2496		238	1728		1842		2164		2281		2502	

*students from new housing are added according to a 5 year buildout of approved plats within the school feeder.

Specific comments concerning this proposal regarding School Capacity are as follows:

- **Specific Impact** - This application will add 448 SF, 82 Duplex/Triplex, & 102 Townhome/Condo dwelling units and a potential impact of 238 additional students in the Erie Elementary, Erie Ridge Middle and Erie High School Feeder.
- **Benchmark Determination** – The high school in this feeder is not projected to exceed the 125% of capacity within 5 years. The School District therefore supports this application.
- **Mitigation Options** - The Town of Erie and the developer should also be aware that the School Board has developed a mitigation policy that would assist in providing capacity for the new students in this subdivision. Under the policy, should an applicant wish to begin construction on a residential development prior to the District's ability to provide additional capacity, the applicant may mitigate the development's impact on the feeder by agreeing to a voluntary, per-unit payment. Funds would be used to provide permanent or temporary capacity within the impacted feeder. The Planning Department would be happy to discuss this type of mitigation for the proposal with either the town or developer.
- **Phasing Plan** – The District would appreciate a phasing plan from the applicant at the time of final plat to more accurately calculate the impacts of this development.

(2) LAND DEDICATIONS AND CASH IN-LIEU FEES

The implementation of the Intergovernmental Agreement (IGA) Concerning Fair Contributions for Public School Sites by the town of Erie requires that the applicant either dedicate land directly to the School District along with provision of the adjacent infrastructure and/or pay cash-in-lieu (CIL) fees based on the student yield of the development. CIL fees provide funds for land acquisition and water rights acquisition, which is only a small component of providing additional school capacity for a feeder. Specific comments regarding land dedications and CIL fees for this referral are as follows:

- **Dedication and/or Cash-in-lieu Requirements** – the developer has dedicated 10 acres for an Elementary School.
- **Number of Units covered by dedication/cash-in-lieu** – The developer has dedicated 10 acres, therefore, dwelling unit credits will be available to this developer.
- **Dedication/Cash-in-lieu Procedures** – Receipts for dwelling unit credits may be obtained at the time of building permit in the St. Vrain Valley School District Business Office – 395 S. Pratt Parkway, Longmont, CO.

3) TRANSPORTATION/ACCESS

Transportation considerations for a project deal with bussing and pedestrian access to and from the subdivision. Pedestrian access, in particular, is an important goal of the School District in order to facilitate community connection to schools and to minimize transportation costs. Specific comments for this application are as follows:

- *Provision of Busing* - Busing for this project, under the current boundaries, would most likely be provided at all levels.

School Planning Standards And Calculation of In Lieu Fees

Single Family		School Planning Standards							
Number Of Units	Projected Student Yield	Student Facility Standard	Site Size Standard Acres	Acres of Land Contribution	Developed Land Value	Cash-In-lieu Contribution			
448	0.22	525	10	1.88	\$80,117				
	98.56								
448	0.1	750	25	1.49	\$80,117				
	44.8								
448	0.11	1200	50	2.05	\$80,117				
	49.28								
	192.64			5.42	\$80,117	\$434,555			
Single Family Student Yield is	0.43								
						\$970			
						Per Unit			

School Planning Standards And Calculation of In Lieu Fees

Duplex/Triplex	School Planning Standards				Acres of Land Contribution	Developed Land Value	Cash-in-lieu Contribution
	Number Projected Of Units	Student Facility Standard	Site Size Standard Acres	Acres of Land Contribution			
Elementary	82	0.2	525	10	0.31	\$80,117	
		16.4					
Middle Level	82	0.09	750	25	0.25	\$80,117	
		7.38					
High School	82	0.09	1200	50	0.31	\$80,117	
		7.38					
Total		31.16			0.87	\$80,117	\$69,372
Duplex/Triplex Student Yield is		0.38					\$846 Per Unit

School Planning Standards And Calculation of In Lieu Fees

Condo/Townhouse	School Planning Standards						Developed Land Value	Cash-In-lieu Contribution
	Number Of Units	Projected Student Yield	Student Facility Standard	Site Size Standard Acres	Acres of Land Contribution			
Elementary	102	0.07 7.14	525	10	0.14	\$80,117		
Middle Level	102	0.04 4.08	750	25	0.14	\$80,117		
High School	102	0.04 4.08	1200	50	0.17	\$80,117		
Total		15.3			0.44	\$80,117	\$35,412	
Condo/Townhouse Student Yield i		0.15					\$347 Per Unit	

TOWN OF ERIE
BOARD OF TRUSTEES AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **CONSENT AGENDA - ORDINANCES**
Ordinance 08-2014; An Ordinance Of The Town Of Erie, Colorado, Amending Title 2, "Revenue And Finance," Chapter 10, "Fee Schedule," Section 6, "Building Inspection Fees," And Chapter 11, "Sales And Use Tax," Section 2, "Use Tax," Of The Erie Municipal Code; And, Setting Forth Details In Relation Thereto

DEPARTMENT: Legislative

PRESENTER: Mayor Wilson

FISCAL	Cost as	NONE
	Recommended:	
INFORMATION:	Balance Available:	
	Budget Line Item	
	Number:	
	New Appropriation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Required:	

STAFF

RECOMMENDATION: None

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

This is a Board requested item.

Staff Review:

____ Town Attorney
____ Town Clerk
____ Community Development Director
____ Finance Director
____ Police Chief
____ Public Works Director
____ Assistant to the Town Administrator

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS: Ordinance 08-2014

ORDINANCE NO. 08- 2014
Series of 2014

AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, AMENDING TITLE 2, "REVENUE AND FINANCE," CHAPTER 10, "FEE SCHEDULE," SECTION 6, "BUILDING INSPECTION FEES," AND CHAPTER 11, "SALES AND USE TAX," SECTION 2, "USE TAX," OF THE ERIE MUNICIPAL CODE; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, The Board of Trustees of the Town of Erie wishes to amend Title 2, "Revenue and Finance," Chapter 10, "Fees," Section 6, "Building Inspection Fees," and Chapter 11, "Sales and Use Tax," Section 2, "Use Tax," by limiting the fees on solar energy devices and systems and exempting the Town use tax on such devices and systems; and,

WHEREAS, it is deemed to be in the best interest of the public health, safety and welfare of the residents of the Town of Erie for the Town of Erie to amend the Erie Municipal Code in such manner.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. Title 2, "Revenue and Finance," Chapter 10, "Fees," Section 6, "Building Inspection Fees," of the Erie Municipal Code is hereby amended to delete that portion of Section 2-10-6, "Building Inspection Fees," "Miscellaneous permit fees," addressing Residential Fees for Solar energy device or system and to replace it with a new Residential Fee to read as follows:

Solar energy device or system:	
Residential	Based on fees in valuation table, not to exceed \$500.00 minus an amount equal to the amount of Boulder County Use Tax assessed for such system

Section 2. Title 2, "Revenue and Finance," Chapter 11, "Sales and Use Tax," Section 2, "Use Tax," subpart C., "Exemptions From Tax," of the Erie Municipal Code is hereby amended to add a new paragraph 12 addressing an exemption for Solar energy device or system to read as follows:

12. The storage, use or consumption of any active solar electric or solar thermal device or system for a residential use, as designated in C.R.S. §24-48.5-113. This exemption is repealed, effective July 1, 2015.

Section 3. Severance Clause. If any article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees of the

Town of Erie, Colorado hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 4. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed. The repeal established herein shall not be construed to revive any ordinance Code provision or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 5. Effective Date. This ordinance shall take effect thirty (30) days after publication following final passage.

INTRODUCED, PASSED, ADOPTED AND ORDER PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS ____ DAY OF _____, 2014.

PUBLISHED IN FULL ON THE ____ DAY OF _____, 2014.

TOWN OF ERIE, COLORADO, a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, Town Clerk

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **RESOLUTION:**
Special Review Use to allow an Accessory Dwelling Unit
Resolution No. 14-30: A Resolution Making Certain Findings Of Fact And Conclusions Favorable To The Special Review Use For An Accessory Dwelling Unit At 105 ½ Briggs Street; And, Setting Forth Details In Relation Thereto.

PURPOSE: Consideration of a Special Review Use for an Accessory Dwelling Unit in the NMU-Neighborhood Mixed Use zone district.

CODE: Erie Municipal Code, Title 10

DEPARTMENT: Community Development

PRESENTER: R. Martin Ostholthoff, Director

FISCAL INFORMATION: Cost as Recommended: n/a
Balance Available: n/a
Budget Line Item Number: 000.00.000.000000.000000
New Appropriation Required: Yes No

STAFF RECOMMENDATION: Staff supports the Special Review Use application for the Accessory Dwelling Unit at 105 ½ Briggs Street and recommends the Board of Trustees approve the application by adopting Resolution No. 14-30.

PLANNING COMMISSION: At the January 15, 2014 public hearing, the Planning Commission approved Resolution P14-02, by unanimous vote, recommending approval of the Special Review Use application allowing an Accessory Dwelling Unit.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

GENERAL INFORMATION:

Applicants: Andrea Welch
9119 Arapahoe Road
Boulder, CO 80303

Location: The site is located at 105 ½ Briggs Street, and is described as Lots 32 and 33, Block 1, Town of Erie Subdivision, Town of Erie, County of Weld, State of Colorado.



Existing Conditions:

Existing Zoning: NMU-Neighborhood Mixed Use
 Existing Land Use: Single-family residential
 Site Size: 7,500 square feet
 Principal DU Size: Approximately 1,520 square-feet

Adjacent Land-Use/Zoning:

	ZONING	LAND USE
NORTH	NMU – Neighborhood Mixed Use	Multi-family residential (mobile homes)
SOUTH	NMU – Neighborhood Mixed Use	Multi-family residential (mobile homes)
EAST	OTR – Old Town Residential	Single-family residential
WEST	NMU – Neighborhood Mixed Use	Single-family residential

BACKGROUND INFORMATION:

The applicant is requesting an ADU on a 7,500 square foot lot that has an existing residence located on the property. The ADU is proposed to be 504-square-feet in size and is proposed as a standalone ADU.

Title 10; Table 3-2 ‘Table of Accessory Uses’ of the Municipal Code indicates that an ADU is a Special Review Use in the all residential zone districts. The applicants’ proposal meets the ADU Use Specific Standards outlined in Section 3.3.G.1 of the Municipal Code as summarized below.

1. **Districts Allowed**

ADU allowed as an accessory use in all residential zone districts with a minimum lot size of 6,000 square feet.

- Property is zoned NMU-Neighborhood Mixed Use with a lot size of 7,500 square feet.

2. **Where Permitted on Lot**

ADU shall comply with applicable site, building and access standards.

- ADU is proposed to be located on the vacant portion of the two lots and will comply with accessory building setback standards.

3. **Size of ADU**

ADU cannot exceed 33 percent of the size of the habitable floor area of the principal dwelling unit, or 800 square feet, whichever is less. ADU located in Old Town are required to be a minimum of 500 square feet.

- Principal unit is approximately 1,520 square feet in size and the proposed ADU is 504 square feet.

4. **Limit on Number**

Only one ADU may be located on a lot.

- One ADU is proposed.

5. **Parking Requirements**

Parking not required for properties that have on street parking on an adjacent street.

- Parking is provided on site.

6. **Design Standards**

ADU designed to maintain the style of principal unit.

- ADU is proposed to match the existing primary structures' architectural style.

ANALYSIS:

The Special Review Use Application to allow an ADU at 105 ½ Briggs Street was reviewed for conformance with Erie Municipal Code, Title 10, Section 7.13.C.9 Approval Criteria. Staff makes the following findings.

- a. The proposed use is consistent with the Comprehensive Plan and all applicable provisions of this Code and applicable State and Federal regulations;
Staff: Criteria met.
- b. The proposed use is consistent with the purpose and intent of the zoning district in which it is located;
Staff: Criteria met.
- c. The proposed use is consistent with any applicable use-specific standards set forth in Section 3.2;
Staff: Criteria met.

- d. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
Staff: *Criteria met.*
- e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
Staff: *Criteria met.*
- f. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
Staff: *Criteria met.*
- g. Adequate assurances of continuing maintenance have been provided; and
Staff: *Criteria met.*
- h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent practicable.
Staff: *Criteria met.*

PUBLIC NOTICE:

Notice of this Public Hearing has been provided as follows:

Published in the Colorado Weekly: January 22, 2014
 Property Posted as required: January 24, 2014
 Letters to Adjacent Property Owners: January 24, 2014

STAFF RECOMMENDATION:

Staff supports the Special Review Use application for the Accessory Dwelling Unit at 105 ½ Briggs Street and recommends the Board of Trustees approve the application by adopting Resolution No. 14-30.

Staff Review:

_____ Town Attorney
 _____ Town Clerk
 Community Development Director
 _____ Finance Director
 _____ Police Chief
 _____ Public Works Director

Approved by:



A. J. Krieger
 Town Administrator

ATTACHMENTS:

- a. Resolution No. 14-30
- b. Planning Commission Resolution P14-02 and minutes
- c. Application materials

ATTACHMENT A

RESOLUTION NO. 14-30

A RESOLUTION MAKING CERTAIN FINDINGS OF FACT AND CONCLUSIONS FAVORABLE TO THE SPECIAL REVIEW USE FOR AN ACCESSORY DWELLING UNIT AT 105 ½ BRIGGS STREET; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Board of Trustees of the Town of Erie, Colorado, conducted a public hearing, Tuesday, February 11, 2014, pursuant to the published notice, on the Special Review Use application for an Accessory Dwelling Unit, on the application of Andrea Welch, 9119 Arapahoe Road, Boulder, Colorado, 80303, for the following real property; to wit:

LOTS 32 AND 33, BLOCK 1, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. Findings of Fact.

1. The applicant's application and supporting documents are in substantial compliance with the Town of Erie Municipal Code, Title 10.
2. The Special Review Use has met Erie Municipal Code, Title 10, Section 7.13.C.9 Approval Criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and all applicable provisions of this Code and applicable State and Federal regulations;
 - b. The proposed use is consistent with the purpose and intent of the zoning district in which it is located;
 - c. The proposed use is consistent with any applicable use-specific standards set forth in Section 3.2;
 - d. The proposed is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
 - e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
 - f. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and roads and transportation, as

applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;

- g. Adequate assurances of continuing maintenance have been provided; and
 - h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent practicable.
3. The Special Review Use as proposed preserves the health, safety, welfare and interest of the citizens of the Town of Erie, Colorado.

Section 2. Conclusions and Order Approving the Special Review Use for an Accessory Dwelling Unit at 105 ½ Briggs Street:

- 1. The applicant's application and supporting documents are in substantial compliance with the Town of Erie Municipal Code, Title 10.
- 2. The Special Review Use has met Town of Erie Municipal Code, Title 10, Section 7.13.C.9 Approval Criteria.
- 3. The Special Review Use as proposed preserves the health, safety, welfare and interest of the citizens of the Town of Erie, Colorado

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE, COLORADO,
a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

ATTACHMENT B

Town of Erie
Planning Commission Regular Meeting
Wednesday, January 15, 2014
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook, Erie, Co 80516

I. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE

Chairman Bell called the Regular Meeting of the Erie Planning Commission to order at 6:29 p.m.

II. ROLL CALL

Commissioner Bell - Present

Commissioner Bottenhorn – Excused

Commissioner Burgard - Present

Commissioner Trujillo - Excused

Commissioner Knott - Present

Commissioner Mazzocco - Present

Commissioner Nelsen - Present

Staff Present:

R. Martin Ostholthoff, Community Development Director;
Deborah Bachelder, Senior Planner; and
Hallie Sawyer, Secretary to the Commission

III. APPROVAL OF THE AGENDA

Commissioner Mazzocco moved to approve the January 15, 2014, Regular Meeting Agenda as submitted. The motion, seconded by Commissioner Burgard, carried with all voting in favor thereof.

IV. APPROVAL OF MINUTES

a. Minutes from the October 30, 2013, Special Meeting.

Commissioner Burgard moved to approve the October 30, 2013, Minutes as submitted. The motion, seconded by Commissioner Mazzocco, carried with all voting in favor thereof.

V. PUBLIC COMMENTS

(This agenda item provides the public an opportunity to discuss items other than items that are on the agenda. The Planning Commission is not prepared to decide on matters brought up at this time, but if warranted, will place them on a future agenda.)

None.

VI. RESOLUTIONS (This agenda item is for all matters that should be decided by resolutions.)

1. Designation of Posting Locations

Purpose: Annual adoption of posting locations for public notices

Request: Approval of Resolution P14-01, A Resolution Regarding The Posting Locations For Notice Of Public Meetings.

(Staff Planner: R. Martin Ostholthoff)

Mr. Ostholthoff presented the annual resolution listing posting locations for public notices for the Commission.

Commissioner Mazzocco moved approval of Resolution P14-01, A Resolution Regarding The Posting Locations For Notice Of Public Meetings. The motion, seconded by Commissioner Burgard, carried with all voting in favor thereof.

2. Public Hearing – Special Review Use 105.5 Briggs Street

Purpose: Consideration of an Accessory Dwelling Unit

Project File #: SRU-13-00072

Request: Consideration of Resolution P14-02,

Location: The Northeast Corner of Briggs Street & Perry Street

Zoning: OTR – Old Town Residential
Applicants: Andrea Welch & Conor Ryan
(Staff Planner: Marty Ostholthoff)

Chairman Bell opened the Public Hearing at 6:33 p.m. Mr. Ostholthoff presented the application for the Special Review Use – Accessory Dwelling Unit to be located at 105.5 Briggs Street, outlining the background of the request, reviewing the criteria for approval, entering the documents into the record, and recommending approval of Resolution P14-02.

Andrea Welch, property owner and applicant, outlined the process she was working thru with the Building Department designing the house and how it would match the existing house.

Commissioner questions covered the status of the attached garage; and clarification of the method of calculation.

Chairman Bell closed the public hearing at 6:45 p.m.

Commissioner Mazzocco moved approval of Resolution P14-02, A Resolution Making Certain Findings Of Fact And Conclusions Favorable To The Special Review Use For An Accessory Dwelling Unit At 105.5 Briggs Street. The motion, seconded by Commissioner Burgard, carried with all voting in favor thereof.

VII. GENERAL BUSINESS (This agenda item is reserved for matters that are ready for Commission action, and do not fit into other categories, i.e. resolutions)

1. Canyon Creek Filing No. 9 Sketch Plan

Purpose: Consideration of the proposed sketch plan proposing 70 single family/65 townhome lots

Project File #: SK-13-00069

Request: Comment on the proposed sketch plan

Location: Southeast Corner of Erie Parkway and N. 119th Street

Zoning: PD – Planned Development

Applicants: Boulder Creek Builders

David Gregg

(Staff Planner: Deborah Bachelder)

Mrs. Bachelder presented a brief overview of the concept plan for Canyon Creek Filing 9 Tract B, located on the southeast corner of N. 119th Street & Erie Parkway. The future process for the project will involve a Comprehensive Plan Amendment, Planned Development Amendment, Preliminary Plat, Site Plan and Final Plat.

David Gregg, Boulder Creek Builders, presented the plan to place 69 single family patio homes and 65 townhomes on the property, providing an age targeted community with easy access to trails, noting they would also like to be able to consider having attached sidewalks allowing easier access to those with mobility issues.

Commissioner comments covered the difference between 'Age Targeted' and 'Age Restricted'; park designs; Erie Parkway access; why the change from the current densities; need for commercial on that corner; will round-about remain and work with added traffic; price ranges; plan changes regarding the commercial component; appreciation of layout and use of space & trails; park plan sensible; sidewalks; intra-community center; nice location; drainage; and general appreciation for the concept.

VIII. STAFF REPORTS (This agenda items is reserved for specific items from Staff requiring Commission direction or just relaying important information.)

Reminder we will have a meeting on February 5th.

IX. COMMISSIONER REPORTS AND DISCUSSION ITEMS (This agenda item is for all Planning Commission reports and items of information as well as Commission discussion items, not listed on the agenda)

Welcome to our two new members!

X. ADJOURNMENT

There being no further business to come before the Commission, Chairman Bell adjourned the January 15, 2014, Regular Meeting of the Planning Commission at 7:20 p.m.

Respectfully Submitted,

Town of Erie Planning Commission

By: _____
Hallie S. Sawyer, Secretary

By: _____
Brent Bell, Chair

DRAFT

ATTACHMENT C



TOWN OF ERIE

Community Development Department – Planning Division
645 Holbrook Street – PO Box 750 – Erie, CO 80516

Tel: 303.926.2770 – Fax: 303.926.2706 – Web: www.erieco.gov

LAND USE APPLICATION

Please fill in this form completely. Incomplete applications will not be processed.

STAFF USE ONLY

FILE NAME: <u>105.5 Briggs St.</u>	DATE SUBMITTED: <u>11-15-13</u>	FEE PAID: <u>400-</u>
FILE NO: <u>SRU-13-00072</u>		

PROJECT/BUSINESS NAME: Andrea Mary Welch
PROJECT ADDRESS: 105 1/2 Briggs St, Erie, CO 80516
PROJECT DESCRIPTION:

LEGAL DESCRIPTION (attach legal description if Metes & Bounds)

Subdivision Name:

Filing #: _____ Lot #: 31-32 Block #: 1 Section: _____ Township: Erie Range: _____

OWNER (attach separate sheets if multiple)

Name/Company: Andrea Welch & Conor Ryan
 Contact Person: Andrea Welch
 Address: 9119 Arapahoe Rd
 City/State/Zip: Boulder, CO 80303
 Phone: 303-917-0068 Fax: _____
 E-mail: ryanranch@netzero.net

AUTHORIZED REPRESENTATIVE

Company/Firm: _____
 Contact Person: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____ Fax: _____
 E-mail: _____

MINERAL RIGHTS OWNER (attach separate sheets if multiple)

Name/Company: _____
 Address: _____
 City/State/Zip: _____

MINERAL LEASE HOLDER (attach separate sheets if multiple)

Name/Company: _____
 Address: _____
 City/State/Zip: _____

LAND-USE & SUMMARY INFORMATION

Present Zoning: residential
 Proposed Zoning: _____
 Gross Acreage: _____

Gross Site Density (du/ac): _____
 # Lots/Units Proposed: _____
 Gross Floor Area: _____

SERVICE PROVIDERS

Electric: X - CEI
 Metro District: _____
 Water (if other than Town): Erie Water

Gas: X - CEI
 Fire District: _____
 Sewer (if other than Town): Erie Public Utilities

PAGE TWO MUST BE SIGNED AND NOTARIZED

DEVELOPMENT REVIEW FEES			
ANNEXATION		SUBDIVISION	
<input type="checkbox"/> Major (10+ acres)	\$ 4000.00	<input type="checkbox"/> Sketch Plan	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor (less than 10 acres)	\$ 2000.00	<input type="checkbox"/> Preliminary Plat	\$ 2000.00 + 40.00 per lot
<input type="checkbox"/> Deannexation	\$ 1000.00	<input type="checkbox"/> Final Plat	\$ 2000.00 + 20.00 per lot
COMPREHENSIVE PLAN AMENDMENT		<input type="checkbox"/> Minor Subdivision Plat	\$ 2000.00
<input type="checkbox"/> Major	\$ 3000.00	<input type="checkbox"/> Minor Amendment Plat	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor	\$ 1200.00	<input type="checkbox"/> Road Vacation (constructed)	\$ 1000.00
ZONING/REZONING		<input type="checkbox"/> Road Vacation (paper)	\$ 100.00
<input type="checkbox"/> Rezoning	\$ 1700.00 + 10.00 per acre	SITE PLAN	
<input type="checkbox"/> PUD Rezoning	\$ 1700.00 + 10.00 per acre	<input type="checkbox"/> Residential	\$ 1400.00 + 10.00 per unit
<input type="checkbox"/> PUD Amendment	\$ 1700.00 + 10.00 per acre	<input type="checkbox"/> Non-Resl. (>10,000 sq. ft.)	\$ 2200.00
<input type="checkbox"/> Major PD Amendment	\$ 3700.00 + 10.00 per acre	<input type="checkbox"/> Non-Resl. (>2,000 sq. ft.)	\$ 1000.00
<input type="checkbox"/> Minor PD Amendment	\$ 500.00	<input type="checkbox"/> Non-Resl. (<2,000 sq. ft.)	\$ 200.00
SPECIAL REVIEW USE		<input type="checkbox"/> Amendment (major)	\$ 1100.00
<input type="checkbox"/> Major	\$ 1000.00	<input type="checkbox"/> Amendment (minor)	\$ 350.00
<input type="checkbox"/> Minor	\$ 400.00	VARIANCE	\$ 600.00
<input type="checkbox"/> Oil & Gas	\$ 1200.00	SERVICE PLAN	\$ 10,000.00
<p><i>All fees include both Town of Erie Planning & Engineering review. These fees do not include referral agency review fees, outside consultant review fees, or review fees incurred by consultants acting on behalf of staff. See Town of Erie Municipal Code, Title 2-10-5 for all COMMUNITY DEVELOPMENT FEES.</i></p>			

The undersigned is fully aware of the request/proposal being made and the actions being initiated on the referenced property. The undersigned understand that the application must be found to be complete by the Town of Erie before the request can officially be accepted and the development review process initiated. The undersigned is aware that the applicant is fully responsible for all reasonable costs associated with the review of the application/request being made to the Town of Erie. Pursuant to Chapter 7 (Section 7.2.B.5) of the Unified Development Code (UDC) of the Town of Erie, applicants shall pay all costs billed by the Town for legal, engineering and planning costs incurred by staff, including consultants acting on behalf of staff, necessary for project review. By this acknowledgement, the undersigned hereby certify that the above information is true and correct.

Owner: *Andrea Welch*
 Owner: *Conor Ryan*
 Applicant: _____

Date: *11/7/13*
 Date: *11/7/13*
 Date: _____

STATE OF COLORADO)
 County of *Boulder*) ss.

The foregoing instrument was acknowledged before me this *7th* day of *November*, 2013, by *Andrea Welch + Conor Ryan*
 My Commission Expires **November 19, 2014**

My commission expires: _____
 Witness my hand and official seal.

JODY DOBSON
 Notary Public
 State of Colorado

Jody Dobson
 Notary Public

Read Message

Letter to the Town of Erie

From: "ryanranch@netzero.com" <ryanranch@netzero.com>

To: co111@postnet.net

Sent: Fri, 15 Nov 2013 19:49:04 GMT

To Whom it May Concern,

11/15/13

When addressing the General Standards, we are proposing to build an Accessory Dwelling Unit on Blk. 1 (lots 30 and 31) in Old Town Erie. The lot size is 7,500 square feet, well over the minimum of 6,000 sq. ft. The permitted accessory dwelling unit shall comply with all of the applicable site, building design, access and other standards and water tap for this location (105.5 Briggs, Erie, 80516). The accessory dwelling unit does not exceed the 33 percent of the existing habitable floor area of the principal dwelling. The proposed unit shall be 504 square feet, with a 206 square foot attached garage. It will contain private sanitary facilities with hot and cold running water etc, in addition to a separate sewer tap to accompany the already existing water tap. There is ample on street parking, and there is already a black top driveway leading to the lot.

With regard to the Design standards, the additional unit will have the same exterior cedar siding throughout. It will also have the same brown garage (and design), brown window exterior trim and a front door with an identical front porch design as well. The roof pitch, and the shingles will be the same (possibly a slightly different color of shingles due to the age of the existing dwelling's roof), but we will keep in character with the theme of brown to match. The architectural style will be very similar, with the same roof pitch 5/12, and with the residence located on the West side of the garage. The roof to the garage will be designed identically, and both will have a concrete entry and walk way.

The general project concept is to provide a secondary small dwelling for my daughter to live in at 105.5 Briggs. Access is already provided and the secondary water tap is already present. The proposed time line is approximately 6 months, after it is approved (hopefully from Jan-June). The proposal does relate to the existing land-use, as it is residential and there are two lots providing ample room another small home on the corner of Briggs and Perry. As described above, the proposal will comply with the Town's Comprehensive Master Plan and Municipal Code Title 10 UDC.

Thank you for your consideration.

Sincerely, Andrea Welch

Escrow No.: 00031979-004-SB4

SPECIAL WARRANTY DEED

Escrow No.: 00031979-004-SB4

Buyer: Andrea Mary Welch & Conor Joseph Ryan *CJR AMW*

Seller: JPMORGAN CHASE BANK, N.A. SUCCESSOR BY MERGER TO BANK ONE, N.A.

THIS DEED, Made this 7th day of February 2012 between

JPMORGAN CHASE BANK, N.A. SUCCESSOR BY MERGER TO BANK ONE, N.A.

of the County of Los Angeles and State of California grantor(s) and

Andrea Mary Welch and Conor Joseph Ryan, Joint Tenants

whose legal address is 105 Briggs Street, Erie, CO 80516

of the County of Boulder, State of Colorado, grantee(s):

WITNESSETH, That the grantor(s) for and in consideration of the sum of Eighty-Six Thousand Six Hundred Dollars and No/100's, (\$86,600.00) the receipt and sufficiency of which is hereby acknowledged, sells and conveys the real property lying and being in the County of Weld, State of Colorado, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN.

Except as explicitly set forth below, Grantor makes no representations or warranties, of any kind or nature whatsoever, whether expressed, implied, implied by law, or otherwise, concerning the condition of the title of the property.

also known as street and number: 105 Briggs Street, Erie, CO 80516; *CJR AMW*

TOGETHER with all and singular appurtenances thereto **SUBJECT, HOWEVER** to all matters set forth on Exhibit "B" attached hereto and made part hereof.

TO HAVE AND TO HOLD the said premises above described with the appurtenances, unto the grantee(s) and their heirs and assigns forever. The grantor(s) for itself and its heirs and personal representatives or successors, does covenant and agree that it shall and will **WARRANT AND FOREVER DEFEND**, the above-bargained premises in the quiet and peaceable possession of the grantee(s) and their heirs and assigns, against all and every person or persons claiming by, through or under the grantor(s), except easements, restrictions, covenants, reservations and rights of way of record, taxes and assessments for 2011, payable in 2012.

IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

lro

On 2/7/12 before me, Tahnee Knapp, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared LISA Scully,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Tahnee Knapp*
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Special warranty deed

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Lisa Scully

- Individual
- Corporate Officer — Title(s): Vice President
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Escrow No.: 00031979-004-SB4

Buyer: Andrea Mary Welch & Conor Joseph Ryan

Seller: JPMORGAN CHASE BANK, N.A. SUCCESSOR BY MERGER TO BANK ONE, N.A.



EXHIBIT B

Permitted Encumbrances

1. The lien of taxes and assessments for the current year and subsequent years;
2. Matters that would be shown by an accurate survey and inspection of the property;
3. All covenants, restrictions, conditions, easements, reservations, rights-of-way, and other matters of record, to the extent valid, subsisting and enforceable;
4. Zoning requirements, statutes, rules, orders, restrictions, regulations and ordinances of governmental agencies or their instrumentalities relating to the property, the buildings located thereon, their construction and uses, in force on the date hereof (if any such exist);
5. All roads and legal highways;
6. Rights of parties in possession (if any); and
7. Any licenses, permits, authorizations or similar items (if any) in connection with the conduct of any activity upon the property.

Escrow No.: 00031979-004-SB4

Buyer: Andrea Mary Welch & Conor Joseph Ryan

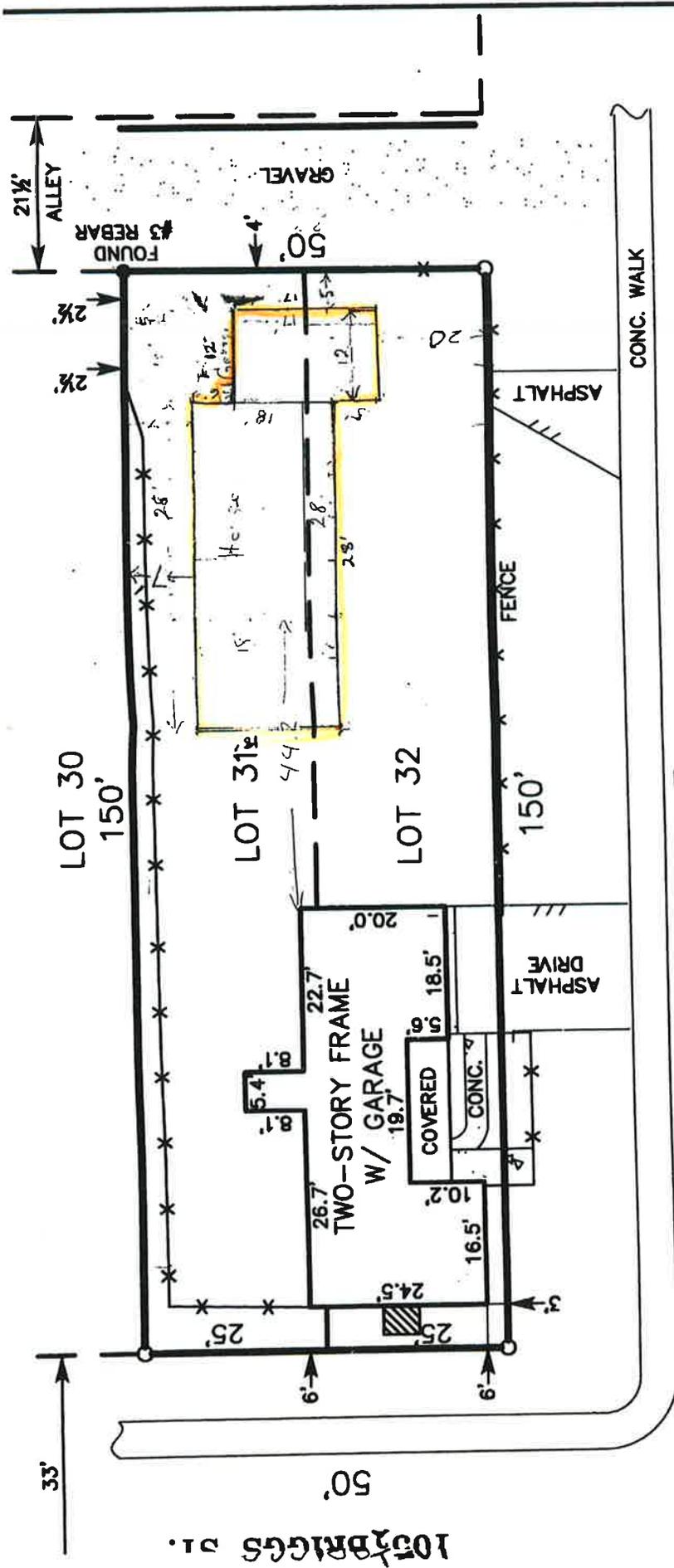
Seller: JPMORGAN CHASE BANK, N.A. SUCCESSOR BY MERGER TO BANK ONE, N.A.



EXHIBIT A

Legal Description

LOTS 31 AND 32, BLOCK 1, TOWN OF ERIE, ACCORDING TO THE RECORDED PLAT THEREOF, ✓
COUNTY OF WELD, STATE OF COLORADO. ✓



Notes:
 1—THIS CERTIFICATE DOES NOT CONSTITUTE A TITLE SEARCH BY FLATRONS, INC. TO DETERMINE OWNERSHIP, RIGHTS OF WAY, EASEMENTS OR ENCUMBRANCES NOT SHOWN BY THE PLAT THAT MAY AFFECT THIS TRACT OF LAND. THERE MAY BE EASEMENTS OR RIGHTS OF WAY OF THE RECORD THAT MAY AFFECT THIS TRACT OF LAND THAT ARE NOT SHOWN ON THIS

RESOLUTION NO. 14-33

A RESOLUTION OF THE TOWN OF ERIE, COLORADO REPEALING RESOLUTION 14-26 PREVIOUSLY ADOPTED ON JANUARY 28, 2014; AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO A NEW GOLDEN RUN ANNEXATION AGREEMENT; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN THE NEW GOLDEN RUN ANNEXATION AGREEMENT; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, Colorado previously approved the Golden Run Annexation Agreement by Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014; and,

WHEREAS, Aaron Harber (the "Owner") has submitted a new Golden Run Annexation Agreement ("New Golden Run Annexation Agreement") to the Town which he requests to take the place of the Golden Run Annexation Agreement previously approved by Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014; and,

WHEREAS, in order to adopt the New Golden Run Annexation Agreement the Board of Trustees must first repeal Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014; and,

WHEREAS, the Board of Trustees hereby desires to repeal Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014 so that it may enter into the New Golden Run Annexation Agreement as requested by the Owner; and,

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town and its citizens to repeal Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014, so that it may enter into the New Golden Run Annexation Agreement as requested by the Owner.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014, is hereby repealed in its entirety.

Section 2. That the New Golden Run Annexation Agreement between the Town of Erie and Owner, a copy of which is attached hereto, marked "Exhibit A," and incorporated herein by reference, is found to be A reasonable and acceptable annexation agreement.

Section 3. That the Town of Erie be and is hereby authorized and directed to enter into the New Golden Run Annexation Agreement, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said New Golden Run Annexation Agreement.

Section 4. That repealing Resolution 14-26, adopted by a vote of the Board of Trustees on January 28, 2014, and entering into the New Golden Run Annexation Agreement as requested by the Owner is found to be in the best interest of the Town of Erie.

ADOPTED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy Parker, Town Clerk

Exhibit A

[New Golden Run Annexation Agreement]

**GOLDEN RUN
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT (“Agreement” or “Annexation Agreement”) is made and entered into this 28th 11th day of JanuaryFebruary, 2014, by and between **AARON HARBER, an individual**, hereinafter referred to as the “Owner,” and the **TOWN OF ERIE, a Colorado municipal corporation**, hereinafter referred to as “Erie” or “Town”.

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WITNESSETH:

WHEREAS, in response to Owner’s Petition for Annexation, the Town of Erie adopted Ordinance 30-2013, on October 16, 2013 annexing to Erie the property more particularly described on Exhibit “A,” which exhibit is attached hereto, incorporated herein, and made a part hereof (such property is hereinafter referred to as the “Annexation Property”); and

WHEREAS, in accordance with the terms of Ordinance 30-2013, the annexation of the Annexation Property was subject to the condition that Aaron Harber and the Town shall execute an Annexation Agreement satisfactory to both parties, and Ordinance 30-2013 further stated that if Aaron Harber and the Town did not execute an Annexation Agreement satisfactory to both parties on or prior to November 12, 2013, then, in that event, Aaron Harber may disconnect the owner’s property as such property is described on the Exhibit B attached to Ordinance 30-2013. Exhibit B from Ordinance 30-2013 is marked Exhibit “B,” attached hereto, incorporated herein, and made a part hereof (such property is hereinafter referred to as the “Owner’s Property”); and

WHEREAS, the initial zoning of the Annexation Property was initiated by the Town on November 12, 2013 but such initial zoning of the Annexation Property has been continued pending the execution of an Annexation Agreement satisfactory to both parties; and

WHEREAS, the within Annexation Agreement is found to be satisfactory to both parties; and

WHEREAS, Owner desires to develop the Annexation Property as a master-planned community, a portion of which is intended to be mixed-use, multi-generational, truly sustainable development, with public and private open spaces, emphasizing the development of local, regional, and national business opportunities as a result of the creation of an ultra-high-density preeminent sustainable community for lifestyle and technology (with a special focus on the needs of those in key demographics from 18 to 29 years of age and over 55 years of age) along with creating a national center for health, fitness, athletics, and sports, as well as create a development which incorporates environmental sensitivities in a manner which creates a model helping to set national and international standards; and

WHEREAS, it is to the mutual benefit of the parties hereto to enter into the Agreement; and

WHEREAS, Owner acknowledges that upon annexation, the Annexation Property will be subject to all Codes (as defined in Article I, below) ordinances, resolutions, and other regulations of the Town, as they may be amended from time to time.

NOW, THEREFORE, in consideration of the above premises and the covenants as hereinafter set forth, it is agreed by and between the parties as follows:

I. ZONING.

A. Initial Zoning.

The Owner desires Planned Development-PD zoning as the initial zoning of the Annexation Property, as authorized by the Town's Unified Development Code ("UDC") and Title 10 of the Code of Ordinances of the Town of Erie as it may be amended from time to time ("Code"), the Planned Development-PD zoning hereinafter referred to as the Golden Run Initial Development Plan ("GR-IDP").

B. Final Zoning.

The Owner further desires and the Town acknowledges the GR-IDP will need to be amended to create detailed development standards and guidelines that reflects the Owner's intent to create a mixed-use, multi-generational and sustainable development, hereinafter referred to as the Golden Run Final Development Plan ("GR-FDP").

C. As already agreed and formally approved in the Pre-Annexation Agreement of April 9, 2013, Tthe Property shall be entitled to a specific total number of units, as detailed by the Owner **and subject to the approval of the Town**, but said number, in total for the entire Property, shall not exceed the maximum which otherwise would be allowed by the Town of Erie Comprehensive Plan (as approved in 2005). Subject to the Town's legal requirements and the terms of the Golden Run Final Development Plan, the Owner may distribute and/or allocate the total number of units throughout the Property as it sees fit as long as the cumulative maximum number of units does not exceed that allowed for the entire Property by the restrictions, if any, of the Comprehensive Plan.

D. As already agreed and formally approved in the Pre-Annexation Agreement of April 9, 2013, Ffor purposes of all calculations done by the Town and/or the Owner for all aspects of the Property, both parties shall presume each residential dwelling unit in the Final Golden Run PD-DP will average 1.25 persons. The Owner and the Town also agree to negotiate other terms and conditions related to fees, assessments, and other financial factors related to the Property so as to meet the special needs of Golden Run.

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II. RIGHT TO DISCONNECT. In the event the Owner does not obtain the GR-FDP zoning for the Annexation Property acceptable to Owner on or prior to January 1, 2016, then, in that

event, in conformance with the terms of Ordinance 30-2013, the Owner may disconnect the Owner's Property from the Town in accordance with state law. The Town has agreed to expedite any disconnection request by the Owner. The Town will approve any disconnection by ordinance, per the attached "Exhibit E." In the event the Owner's Property or any portion thereof is disconnected pursuant to this Article II, the Town shall have no obligation to serve the disconnected Owner's Property or any portion thereof and this Agreement shall be void and of no further force and effect as to such Owner's Property or portion thereof. The Owner's right to disconnect, as provided for herein, shall terminate on June 30, 2016. **The Town agrees it will not disconnect the Property without the Owner's written approval.**

Comment [AH1]: For the next series of expenditures to be made, the Owner needs the assurance of stability for the interim.

III. NO VESTED PROPERTY RIGHTS. **Except as specifically provided herein, T**he Owner and Town acknowledge and agree that neither the annexation of the Annexation Property, nor the approval of the initial zoning constitute the creation of a vested property right for the Annexation Property, as vested rights are defined by the Colorado Revised Statutes and the Code, and that any such vested right for the Annexation Property, if any, must be created in accordance with the applicable provisions of the Colorado Revised Statutes and the Code. **The Owner represents to the Town that, to the best of its knowledge, there are no vested rights to the Property from the County of Boulder or any other governmental entity and the Owner hereby waives and releases any rights which may have been so granted.**

Comment [AH2]: To be addressed in the Development Agreement. Rather than get into a legal discussion of what rights qualify in certain categories, these issues can be addressed later and do not need to be addressed at this time. Furthermore, if there is a future disconnection, the changes avoid the possibility of an undesired transfer of rights.

IV. FIRST RIGHT OF REFUSAL GRANT. In part, as a demonstration of its commitment to the unique collaborative process, and to give the Town an extraordinary degree of control over the development of the Annexation Property, and furthermore in consideration of the other grants provided by the Town, the Owner hereby grants the Town a one-time Right of First Refusal in regard to any sale of the Annexation Property (including any portion representing a majority of the Annexation Property's +/-320 acres), as set forth herein ("Right of First Refusal"). This Right of First Refusal shall be effective immediately upon approval of this Annexation Agreement and shall expire on January 1, 2015 (the "Expiration Date"). In the event the Owner receives and accepts a *bona fide* offer for the Annexation Property (the "Purchase Contract" or "Contract"), he shall immediately notify the Town and provide the Town with a complete copy of the Contract. The Town will have thirty (30) days from the receipt of said notice from the Owner to give notice to the Owner that it has decided to exercise its Right of First Refusal. In the event the Town gives notice to the Owner that it is not exercising its Right of First Refusal or in the event no timely notice is given by the Town to the Owner, this Right of First Refusal shall expire. In the event the Property is not sold prior to the January 1, 2015 expiration date, the Town's Right of First Refusal shall end on that date. In the event the Town exercises its Right of First Refusal, it shall be bound by and required to timely perform all of the terms of the Purchase Contract (i.e., as if it had been the party making the original offer) or else the Purchase Contract between the Town and the Owner can be voided at the sole discretion of the Owner and the Town's Right of First Refusal shall expire. In such an instance, the Right of First Refusal will have been permanently terminated. Once so terminated, the Owner will have the right to reinstate the Purchase Contract with the original buyer or seek any subsequent buyer. Hence, in the event the Town fails to timely and fully perform one or more terms of the contract, its Right of First Refusal may be terminated by the Owner as of the date of the Town's failure to timely

or fully perform. This Right of First Refusal may be extended by mutual written agreement but neither party is under any obligation to give its consent to any such extension.

V. ANNEXATION PROPERTY PURCHASE CONTRACT TERMS. In part, as a further demonstration of its commitment to the unique collaborative process, as described herein, in exchange for the considerations herein, the Owner hereby separately grants the Town an Option to purchase the Annexation Property (excluding the portion currently serving as the Owner's residence, 2500 North 119th Street, Lafayette, CO 80026-9216, also known as the southwest quarter of the northwest quarter of Section 25, Township 1 North, Range 69 West, at the 6th P.M., Boulder County, Colorado, as defined by the Improvement Location Certificate dated February 10, 1999, formally provided to Boulder County and attached hereto as Exhibit "C," and currently the only mortgaged portion of the Annexation Property) for a cash price of Ninety-Two Million Five Hundred Thousand Dollars (\$92,500,000) (the "Option"). In the event the Town wishes to re-negotiate the purchase price, it may propose to do so at any time. This Purchase Contract is attached hereto as Exhibit "D." To exercise this Option, the Town must sign the Purchase Contract and give notice to the Owner at least sixty (60) days in advance of the date it is proposing for the closing. If the Town fails to give the Owner a signed Purchase Contract and a proposed closing date by October 1, 2014, this Option shall expire automatically and neither party will have any further obligations with regard to the Option. Furthermore, the Option also shall otherwise expire automatically on January 1, 2015, if no signed Purchase Contract and closing date is provided to the Owner by the Town with said closing date occurring prior to that expiration date. The Option may be extended by mutual written agreement but neither party is under any obligation to give its consent to any such extension.

VI. NOTICE. Any notice or communication required or permitted hereunder shall be given in writing and shall be personally delivered, or sent by United States mail, postage, prepaid, registered or certified mail, return receipt requested, addressed as follows:

Erie:

Town Administrator
Town of Erie
Post Office Box 750
Erie, Colorado 80516-0750
(AJKrieger@ErieCO.gov)

With a copy (which shall not constitute notice) to:

Mark R. Shapiro
Mark R. Shapiro, PC
1650 38th Street, Suite 103
Boulder, CO 80301-2624
(Mark@MShapiroLaw.com)

Owner:

Aaron Harber, Owner
GOLDEN RUN, LLC
2500 North 119th Street
Lafayette, CO 80026-9216
(Aaron@GoldenRun.com)

With a copy (which shall not constitute notice) to:

Carl Oldham, General Manager
GOLDEN RUN, LLC
2338 Walnut Street
Boulder, CO 80302
(Carl@GoldenRun.com)

Notices shall be effective upon mailing or personal delivery in compliance with this Article.

VII. MISCELLANEOUS PROVISIONS.

- A. Interpretation.** Nothing in this Agreement shall constitute or be interpreted as a repeal of the Town's Code, ordinances or resolutions, or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the Town and its inhabitants, nor shall this Agreement prohibit the enactment or increase by the Town of any tax or fee.
- B. Amendments to the Agreement.** This Agreement may be amended, at anytime, upon agreement of the parties hereto. Such amendments shall be in writing, shall be recorded with the County Clerk & Recorder of Boulder County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Annexation Property subject to the amendment unless otherwise specified in the amendment.

In addition, this Agreement may be amended by mutual agreement between the Town and any owner within the Annexation Property without the consent of any other owner within the Annexation Property as long as such amendment affects only that amending owner's portion of the Annexation Property. Such amendments shall be in writing, shall be recorded with the County Clerk & Recorder of Boulder County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Annexation Property subject to the amendment unless otherwise specified in the amendment.

- C. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors in interest, or their legal representatives, including all developers, purchasers and subsequent owners of any lots or parcels within the Annexation Property, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk & Recorder of Boulder County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
- D. Indemnification.** Owner agrees to indemnify and hold harmless the Town and the Town's officers, employees, agents, and contractors, from and against all liability, claims, and demands, including attorney's fees and court costs, which arise out of or are in any manner connected with the approval process of the annexation of the Annexation Property, or other action determined necessary or desirable by the Town in order to effectuate the annexation of the Annexation Property, or which are in any manner connected with Erie's enforcement of this Agreement. Owner further agrees to investigate, handle, respond to, and to provide defense for and defend against or at the Town's option to pay the attorney's fees for defense counsel of the Town's choice for, any such liability, claims, or demands.

Comment [AH3]: The indemnification was represented as being about the annexation process and has been qualified as such. There already is a separate provision for attorneys' fees and costs in other situations.

- E. **Termination.** If the Owner's Property or a portion thereof is disconnected from the Town pursuant to Article II, herein above, then this Agreement shall be null and void and of no force and effect whatsoever for that portion of the Owner's Property which is disconnected.
- F. **Zoning Subject to Legislative Discretion.** The Owner acknowledges that the zoning of the Annexation Property is subject to the legislative discretion of the Board of Trustees of the Town of Erie. No assurances of future zoning have been made or relied upon by the Owner. In the event the Town of Erie Board of Trustees, in the exercise of its legislative discretion, does not take zoning action with respect to the Annexation Property herein contemplated, then the sole and exclusive remedy for the breach hereof accompanied by the exercise of such discretion shall be the disconnection of the Owner's Property from the Town in the situation as provided for herein, in accordance with state law.
- G. **Legal Discretion in the Case of Challenge.** The Town of Erie reserves the right to not defend any legal challenge to the annexation of the Annexation Property or this Agreement, In the event such a challenge occurs prior to any expiration of any statute of limitation, Erie may, at its discretion, choose to legally fight the challenge or allow the challenge to proceed without defense. This does not restrict the Owner from engaging the Town's legal representatives in such a defense, at no cost to the Town.
- H. **Application of Town Policies.** All subsequent development of the Annexation Property shall be subject to and bound by the applicable provisions of the Code and all Town ordinances, rules, regulations, and specifications, including public land dedications, provided however, that changes or amendments to the Code, after the date of this Agreement shall in no way limit or impair Erie's obligation hereunder, except as specifically set forth in this Agreement.
- I. **Amendments to Governing Ordinances, Resolutions and Policies.** As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town Code, ordinance, resolution, or policy is intended to refer to any subsequent amendments or revisions to such Code, ordinance, resolution, or policy, and the parties agree that such amendments or revisions shall be binding upon Owner.
- J. **Remedies.** It is understood and agreed by the parties that the Town both parties shall have all available remedies for breach of this Agreement in law or in equity, including but not limited to specific performance and damages. In the event of breach or default by the Town, the sole remedy hereunder for Owner shall be the equitable remedies of specific performance or injunction. Owner, it successors and assigns, hereby waive any rights to money damages for any such breach or default.

Comment [AH4]: This should apply mutually as this is a collaborative process.

- K. Legal Fees.** In the event that either party finds it necessary to retain an attorney in connection with a default by the other as to any of the provisions contained in this Agreement, the defaulting party shall pay the other's reasonable attorney's fees and costs incurred in enforcing the provisions of this Agreement.
- L. Reimbursement for Other Costs.** The Owner shall reimburse the Town for any reasonable third party costs necessary for the orderly and proper development of the Annexation Property, including but not limited to consultant's fees for planning and engineering, and attorney's fees for legal services beyond the normal document review, which is directly linked to the Annexation Property. The Town will consult with the Owner prior to approving any contract for third party review.
- M. Cooperation.** The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the same.
- N. Compliance with State Law.** The Owner and the Town shall comply with all applicable State law and regulations.
- O. Recording of Agreement.** This Agreement shall be recorded in the records of the Boulder County Clerk and Recorder at the Owner's cost. The Town shall retain the original Agreement following recordation.

VIII. TERMINATION OF PRE-ANNEXATION AGREEMENT. The parties agree that this Agreement shall become effective upon the mutual execution of this Agreement by all parties, with the date of execution by the final party executing to be determined to be the effective date of the Agreement ("Effective Date"). The parties further agree that as of the Effective Date, the Golden Run Pre-Annexation Agreement, dated April 9, 2013, shall be terminated, shall be null and void, and shall no longer be in effect.

IX. COMPLETE AGREEMENT. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein this Agreement may be enforced in any court of competent jurisdiction.

[SIGNATURES ON FOLLOWING PAGES]

TOWN:
TOWN OF ERIE, a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy J. Parker, Town Clerk

1/21/14 Town

EXHIBITS LIST

- Exhibit A Annexation Property Legal Description
- Exhibit B Owner's Property Legal Description
- Exhibit C Improvement Location Certificate dated February 10, 1999
- Exhibit D Purchase Contract
- Exhibit E Disconnection Ordinance

EXHIBIT A
(Annexation Property Legal Description)

EXHIBIT B
(Owner's Property Legal Description)

EXHIBIT C
(Improvement Location Certificate dated February 10, 1999)

EXHIBIT D
(Purchase Contract)

EXHIBIT E

(Disconnection Ordinance)

TOWN OF ERIE
BOARD OF TRUSTEES AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: ORDINANCE 09-2014; AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, REPEALING AND RE-ENACTING TITLE 6, "POLICE AND TRAFFIC REGULATIONS," CHAPTER 7, "OFFENSES RELATING TO ANIMALS," SECTIONS 6-7-3.A.2 AND A.3, "DOGS," SECTIONS 6-7-4.B.1 AND B.3, "IMPOUNDMENT AND REDEMPTION PROVISIONS," AND SECTION 6-7-7 "CRUELTY TO ANIMALS," OF THE MUNICIPAL CODE OF THE TOWN OF ERIE, REPEALING AND RE-ENACTING TITLE 2, "FINANCE AND REVENUE," CHAPTER 10, "FEE SCHEDULE," SECTION 2-10-8 "MISCELLANEOUS FEES" RELATED TO DOG LICENSE FEES, OF THE MUNICIPAL CODE OF THE TOWN OF ERIE; AND, SETTING FORTH DETAILS IN RELATION THERETO.

DEPARTMENT

PRESENTER: Kristin N. Brown, Town Prosecutor

FISCAL INFORMATION:	Cost as Recommended:	NONE
	Balance Available:	
	Budget Line Item Number:	
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF RECOMMENDATION: **Approval of Ordinance 09-2014**

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The proposed ordinance revises several provisions of the Erie Municipal Code related to animals. The ordinance amends §6-7-3 related to licensing requirements to allow the term of the town dog license to run concurrent with the rabies vaccination (currently each license runs the term of the calendar year, from Jan. 1 – Dec. 31). The term of the rabies vaccination, and also the dog license, is for one year or three years.

The ordinance significantly modifies the code provisions related to cruelty to animals, allowing an officer to seize an animal from property where there is reasonable suspicion to believe the animal is being mistreated or neglected. The animal may be seized from inside of the residence only upon the issuance of a search warrant issued by the municipal court.

Finally, the ordinance establishes a new fee schedule for licensing of dogs, to reflect a fee for a one year dog license and a three year license.

I will be at the Board meeting on February 11, 2014 to present the ordinance and answer any questions Trustees may have.

Staff Review:

- Town Attorney
- Town Clerk
- Community Development Director
- Finance Director
- Police Chief
- Public Works Director
- Assistant to the Town Administrator

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

Proposed ordinance.

ORDINANCE NO. 09-2014

AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, REPEALING AND RE-ENACTING TITLE 6, "POLICE AND TRAFFIC REGULATIONS," CHAPTER 7, "OFFENSES RELATING TO ANIMALS," SECTIONS 6-7-3.A.2 AND A.3, "DOGS," SECTIONS 6-7-4.B.1 AND B.3, "IMPOUNDMENT AND REDEMPTION PROVISIONS," AND, SECTION 6-7-7 "CRUELTY TO ANIMALS," OF THE MUNICIPAL CODE OF THE TOWN OF ERIE, REPEALING AND RE-ENACTING TITLE 2, "FINANCE AND REVENUE," CHAPTER 10, "FEE SCHEDULE," SECTION 2-10-8 "MISCELLANEOUS FEES" RELATED TO DOG LICENSE FEES, OF THE MUNICIPAL CODE OF THE TOWN OF ERIE; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Board of Trustees of the Town of Erie has determined that adoption of the below provisions specifically provide for the preservation of the health, safety, and welfare of Town residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. Title 6, "Police and Traffic Regulations," Chapter 7, "Offense Relating to Animals," Section 6-7-3, "Dogs," subparts A.2 and A.3 of the Municipal Code of the Town of Erie, are hereby repealed in their entirety and re-enacted to read as follows:

6-7-3: DOGS:

A. Licensing Requirements:

2. Tag and Collar: A metal tag shall be furnished as license identification with each license, bearing the number of the license. The license tag shall be attached to the collar worn by the animal so licensed, unless a microchip containing identifying information of the owner has been placed in the animal by a licensed veterinarian.

3. Expiration of License: Each license shall be for the term of the rabies vaccination administered to each individual dog, for a term of one year or three years.

Section 2. Title 6, "Police and Traffic Regulations," Chapter 7, "Offense Relating to Animals," Section 6-7-4., "Impoundment and Redemption Provisions, subparts B.1 and B.3. of the Municipal Code of the Town of Erie, are hereby repealed in their entirety and re-enacted to read as follows:

6-7-4: IMPOUNDMENT AND REDEMPTION PROVISIONS:

B. Impoundment of Animals: An Erie animal control officer or police officer is authorized to impound any animal in any of the following circumstances:

1. When the officer has probable cause to believe that an animal constitutes an immediate danger to any person or the community.
3. In any case where any animal whose owner or keeper responsible for its care is incapacitated or otherwise not available to provide for the animal's welfare.

Section 3. Title 6, "Police and Traffic Regulations," Chapter 7, "Offense Relating to Animals," Section 6-7-7, "Cruelty to Animals," of the Municipal Code of the Town of Erie, is hereby repealed in its entirety and re-enacted to read as follows:

6-7-7: CRUELTY TO ANIMALS:

A. No person shall:

- 1 Overdrive, overload, drive when overloaded or overwork any animal
- 2 Beat, mutilate or torture any animal;
- 3 Needlessly shoot at, wound, capture or in any other manner needlessly molest, injure or kill any animal;
- 4 Carry, transport or keep in a cruel manner any animal.

B. It is a specific defense to a charge of violating subsection A that the action was necessary to avoid injury to a person or that the animal was not a domesticated animal and the action was necessary to avoid injury to a person or property.

C. It is unlawful for any person to fail to provide an animal owned or in the custody of such person with adequate food, water, protection from the elements, veterinary services, humane care and treatment necessary to maintain the good health of the animal and to prevent suffering of the animal, or other care generally considered to be normal, usual and accepted for the animal's health and well-being consistent with the species, breed, and type of animal.

D. Where there is reasonable suspicion to believe that an animal(s) is being mistreated or neglected, as described in Paragraphs A. or C. of this Section, an animal control officer or police officer may enter the premises and remove and impound the animal(s). *Premises*, as used in this sub-section, is defined to include the land and structures thereon, not to include the residence.

E. Where an animal(s) is located in the residence and is not otherwise accessible, and an animal control officer or police officer has probable cause to

believe that the animal(s) is being mistreated or neglected, as described in Paragraphs A. or C. of this Section, to the extent the life of the animal(s) is endangered, an animal control officer or police officer may enter the residence for the purpose of removing and impounding the animal(s) upon the issuance of a warrant issued by an appropriate court for such purpose.

F. The owner or keeper of the impounded animal(s) shall be responsible for all charges incurred in impounding the animal.

G. Upon impounding the animal(s) the Police Department shall make all reasonable efforts to notify the owner or keeper of the impoundment. If attempts to notify the owner or keeper of the impoundment in person or by telephone are unsuccessful, notice may be made by posting written notification of the impoundment at the premises from which the animal(s) was removed.

H. Disposition of impounded animal.

1. When an animal has been seized and impounded pursuant to the provisions of this Section, upon Motion of the Town Prosecutor, the Municipal Court may enter an order of forfeiture of the animal if the court finds that there is a continuing threat to the health and welfare of the animal in the event the animal is returned to the owner or keeper.

2. A copy of the Prosecutor's Motion for Forfeiture, along with notice of the hearing, shall be personally served on the owner or keeper, or mailed first class mail to the last known address of the owner or keeper at least five days prior to the date set for the hearing.

3. The Town shall bear the burden of proof at the hearing, by a preponderance of the evidence. If the owner or keeper, without good cause, fails to appear at the hearing, the animal shall be deemed abandoned and, upon proper proof of the need for forfeiture, may be ordered forfeited.

4. The owner or keeper of the animal shall have the rights afforded defendants in judicial proceedings including the right to be represented by counsel, the right to cross-examine the Town's witnesses, and the right to compel the attendance of witnesses. The defendant shall not have the right to a jury trial on the issue of forfeiture.

5. The hearing shall be conducted as an administrative hearing and the rules of evidence shall not be binding. Any and all documentary evidence deemed relevant by the Municipal Judge may be received in evidence. The Municipal Judge shall have the power to determine that the animal be further confined, to order that the owner or keeper take specific steps to provide for the health and welfare of the animal, or to order that the owner or keeper forfeit ownership of the animal, which shall then be surrendered to the appropriate animal shelter.

6. The owner or keeper of an animal that is the subject of a Motion brought under this Section shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall be Town of Erie or its employees, agents or staff be liable for such costs.

7. The Municipal Court in its discretion may order a forfeiture authorized by this Section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

8. **Bond.** The owner, possessor or keeper of an animal that has been impounded because of alleged neglect, abuse or cruelty shall post a bond in an amount to be determined by the Police Department, to cover the estimated costs of the care and keeping of the animal from the date the animal was taken into custody to the date of the hearing. Such bond shall be filed with the Court within five days of the date of written notification of such bond to the owner, possessor, or keeper. In the event the owner, possessor, or keeper fails to post bond as required herein, the animal shall be deemed abandoned, the hearing on the issue of forfeiture vacated, and the custody of the animal shall be deemed transferred to the appropriate animal shelter.

9. If, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

10. An animal that is not claimed by its owner, possessor or keeper within five days after being eligible for release from impoundment pursuant to this Section, shall be deemed abandoned and may be disposed of at the discretion of the appropriate animal shelter.

Section 4. Title 2, "Finance and Revenue," Chapter 10, "Fee Schedule," Section 2-10-8, "Miscellaneous Fees" of the Municipal Code of the Town of Erie, is hereby amended to change the dog license fees to read as follows:

2-10-8: MISCELLANEOUS FEES:

Dog license fee	
Spayed/neutered	\$10.00 for 1 year license \$25.00 for 3 year license
Not spayed/neutered	\$20.00 for 1 year license \$55.00 for 3 year license

Section 5. **Severance Clause.** If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees of the Town of Erie, Colorado hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 6. **Repeal.** All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 7. Effective Date. This ordinance shall take effect thirty (30) days after publication following final passage.

INTRODUCED, PASSED, ADOPTED AND ORDER PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS ____ DAY OF FEBRUARY, 2014.

PUBLISHED IN FULL ON THE ____ DAY OF _____, 2014.

TOWN OF ERIE, COLORADO, a Colorado municipal corporation

By: _____
Joseph A. Wilson, Mayor

ATTEST:

By: _____
Nancy Parker, Town Clerk

**TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM**

Board Meeting Date: February 11, 2014

SUBJECT:	STAFF REPORT
	Water and Waste Water Monthly Report
DEPARTMENT:	Public Works
PRESENTER:	Gary Behlen, Director of Public Works

FISCAL	Cost as Recommended:	\$ 0
INFORMATION:	Balance Available:	\$ 0
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF RECOMMENDATION:	N/A
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SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Water Treatment average monthly production and Water Reclamation average monthly graphs depict the monthly average at the Lynn R. Morgan Water Treatment Facility and North Water Reclamation Facility for 2010 – 2013.

The Water Treatment and Water Reclamation per capita graphs depict the average per capita usage for 2010 – 2013, calculated using the average monthly flow treated divided by the population within the system.

**Note the increase at the Water Reclamation Facility was due to the storm events in August and September.*

Water Treatment Facility:

Annual Daily average flow:

- 2010 2.529 million gallons (MG)
- 2011 2.638 million gallons
- 2012 2.914 million gallons
- 2013 2.642 million gallons

July 2013 had the highest flows, 5.896 MG, while February 2010 had the lowest flows, 1.025 MG.

Annual Daily average gallons per capita usage:

- 2010 126 gallons per capita (GPC)
- 2011 131 gallons per capita
- 2012 146 gallons per capita
- 2013 132 gallons per capita

July 2013 has the highest usage, 295 GPC, while February 2012 had the lowest usage, 52 GPC.

Water Reclamation Facility:

Annual Daily average flow:

- 2010 1.007 million gallons (MG)
- 2011 1.073 million gallons
- 2012 1.090 million gallons
- 2013 1.216 million gallons

September 2013 had the highest average, *1.672 MG, while March 2011 had the lowest average, 0.918 MG.

Annual Daily average per capita usage:

- 2010 50 gallons per capita (GPC)
- 2011 54 gallons per capita
- 2012 54 gallons per capita
- 2013 61 gallons per capita

September 2013 had the highest usage, *81 gallons, while February and March 2011 had the lowest usage, 46 gallons.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
 _____ Police Chief
_____ Public Works Director

Approved by:



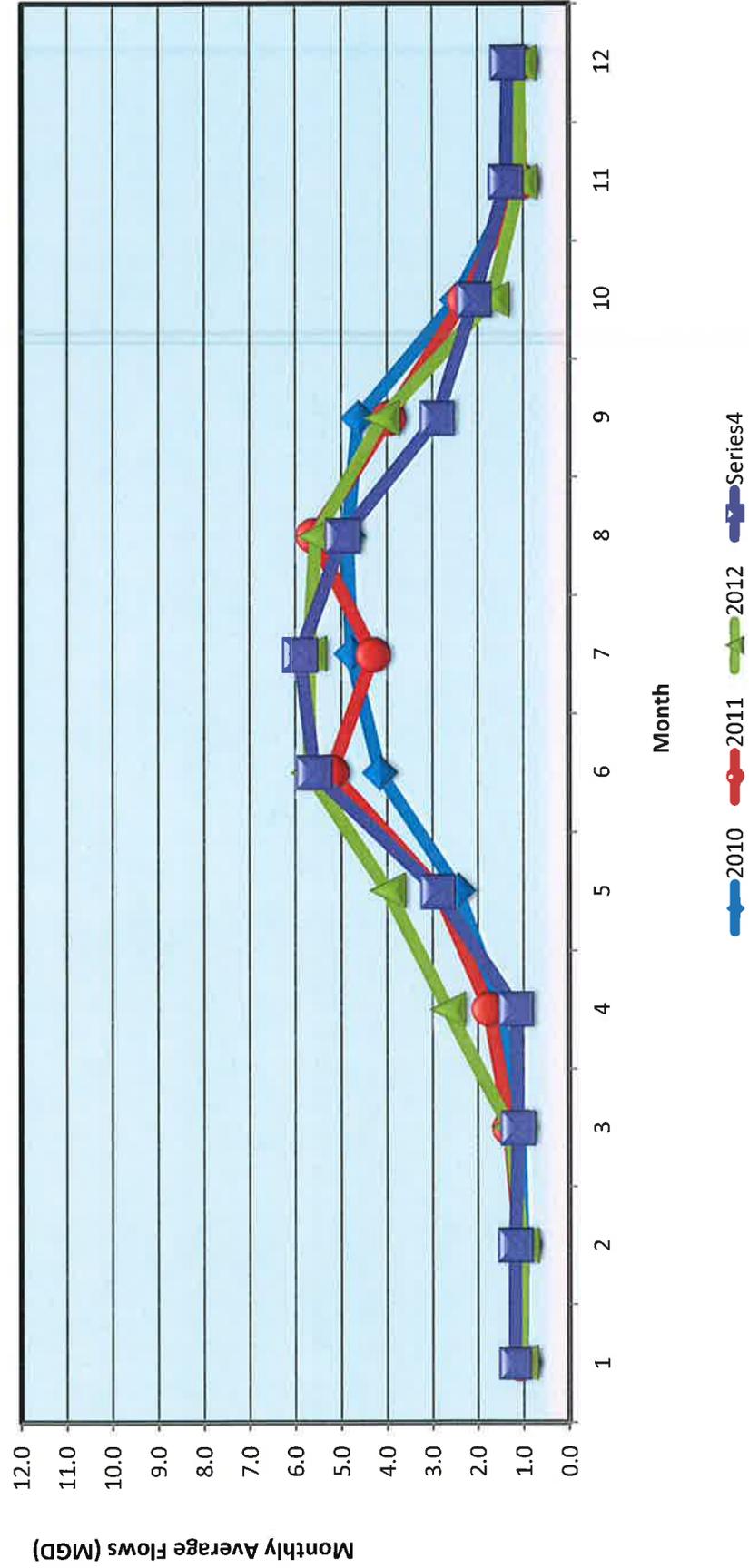
A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Water Treatment Facility Ave. Production graph
- b. Water Usage per Capita graph
- c. Water Reclamation Facility Ave. Production
- d. Water Reclamation Usage per Capita graph

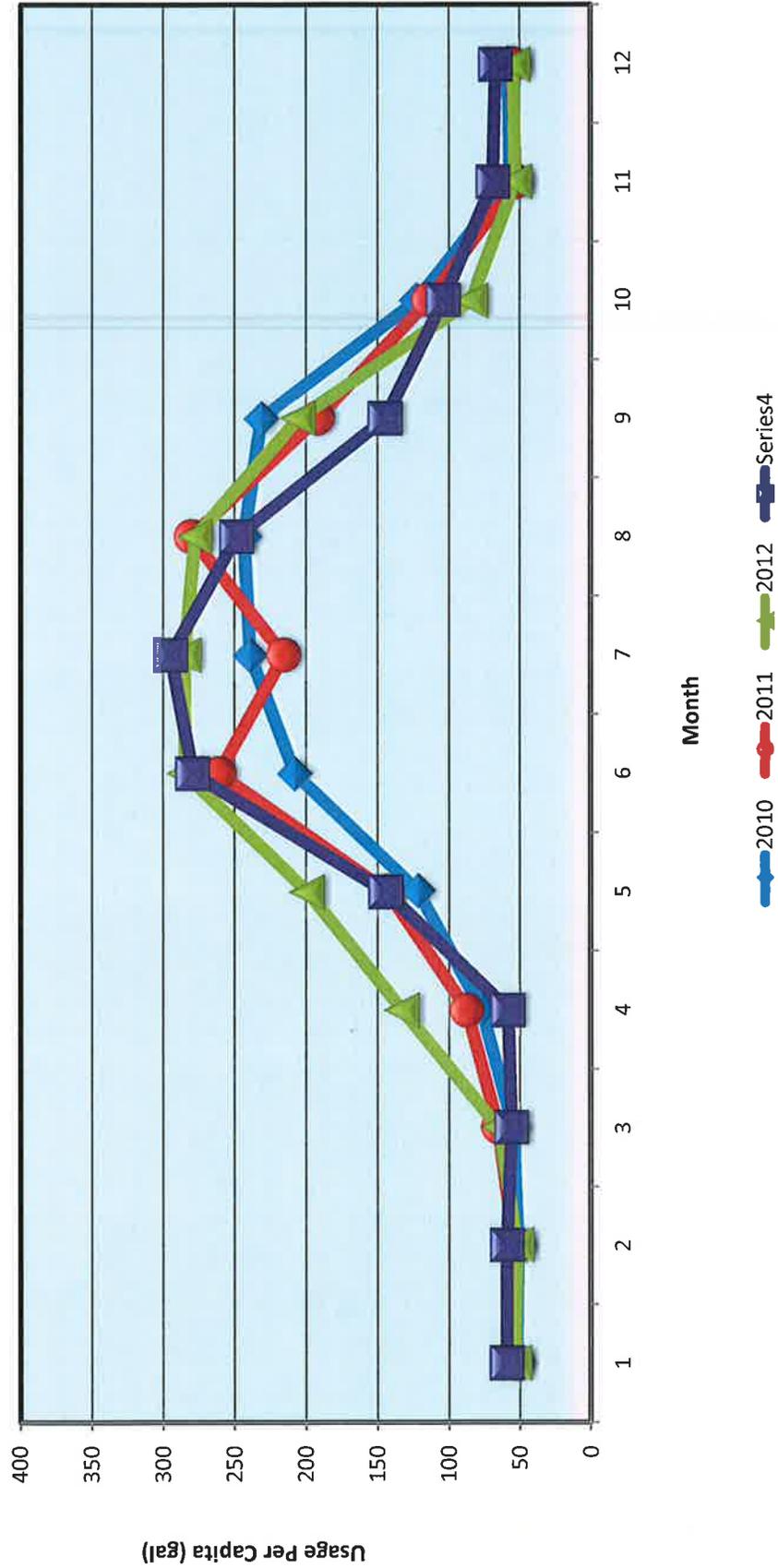


Town of Erie Water Treatment Facility Average Monthly Production



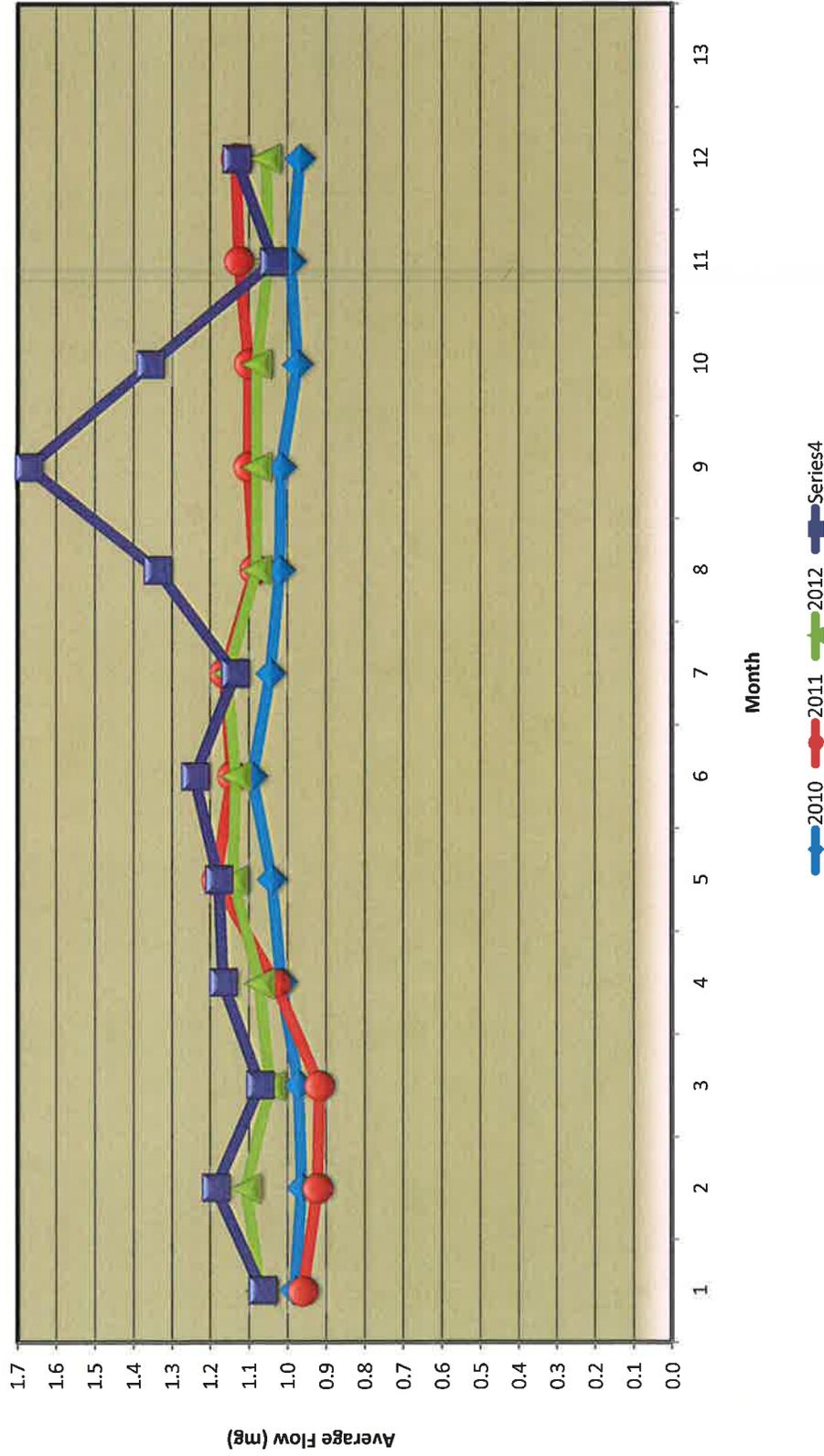


Town of Erie Water Treatment Facility Average Daily Usage Per Capita



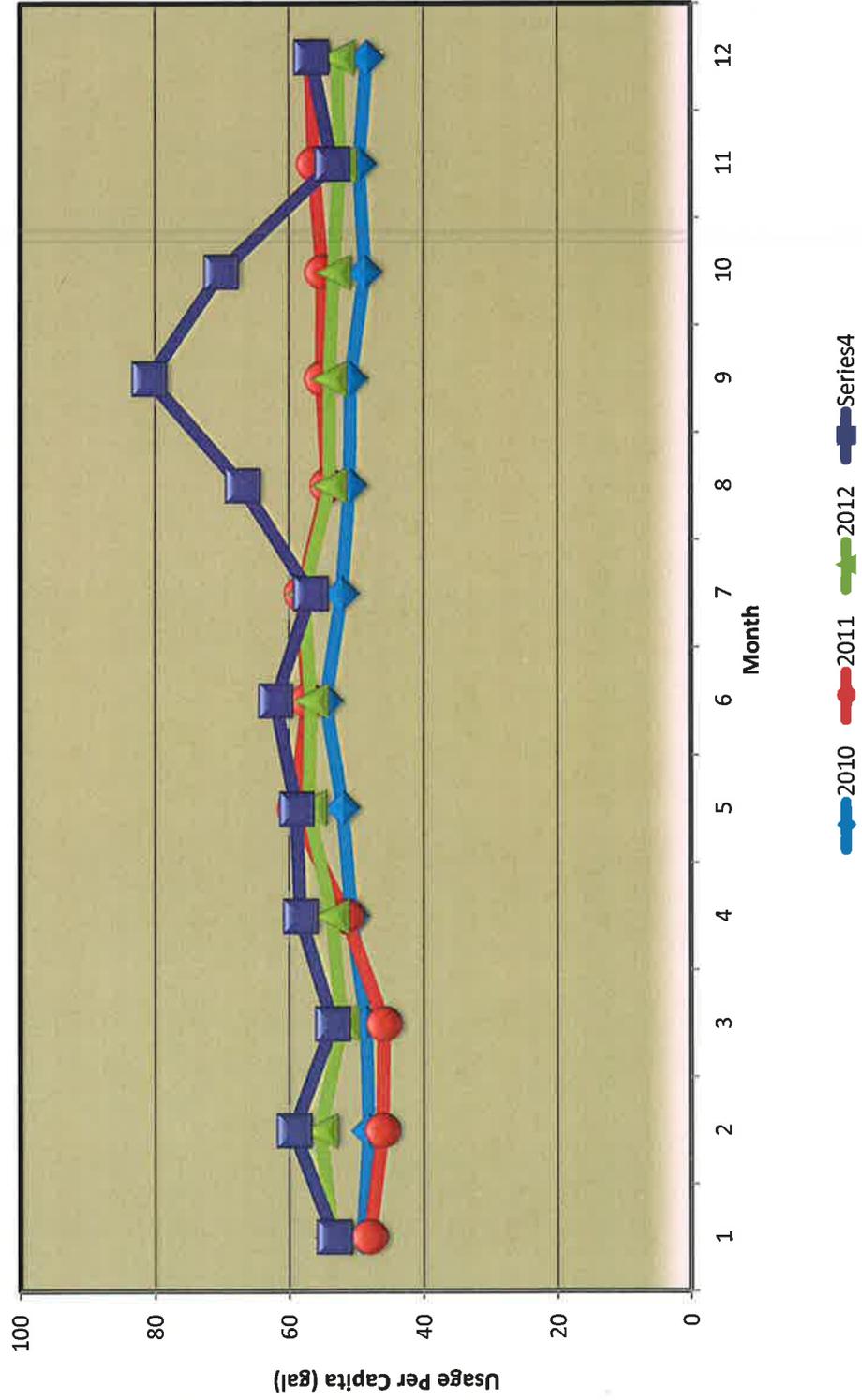


Town of Erie Water Reclamation Facility Average Monthly Flows





Town of Erie Water Reclamation Facility Average Daily Usage Per Capita



TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: February 11, 2014

SUBJECT: **STAFF REPORT**

Community Development Monthly Reports

DEPARTMENT: Community Development

PRESENTER: R. Martin Ostholthoff, Director

FISCAL	Cost as Recommended:	n/a
INFORMATION:	Balance Available:	n/a
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF
RECOMMENDATION: n/a

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Building Permit Monthly Report

The attached Building Permit Report indicates the number of new residential building permits issued to date (through January 2014) versus the building permit projections utilized in determining the 2014 budget. The Town issued 12 new residential building permits in January.

For 2014 the Town has issued 12 building permits or 4 percent of the yearly projected total of 300 building permits.

The Building Permit Reports for 2013 and 2012 are attached hereto for comparison.

Historic Erie Neighborhood Building Permit Fee Waiver

The effective date of the Historic Erie Neighborhood waiver was October 6, 2012.

A total of 3 permits valued at \$856.46 in fees were waived for the month of January 2014. The cumulative value of fees waived since the inception of the program is \$11,336.05. A breakdown of the fees waived is attached hereto.

Staff Review:

___ Town Attorney
___ Town Clerk
 Community Development Director
___ Finance Director
___ Police Chief
___ Public Works Director

Approved by:


A.J. Krieger
Town Administrator

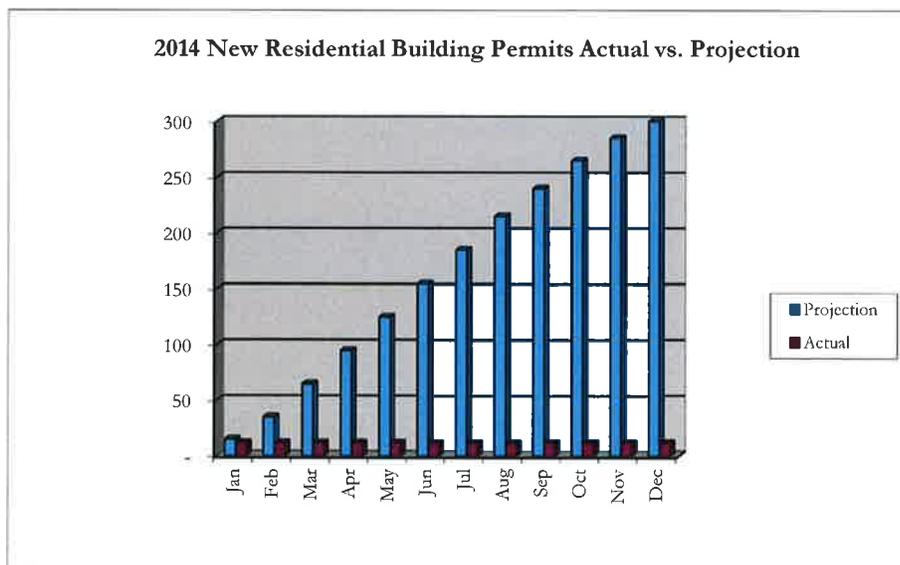
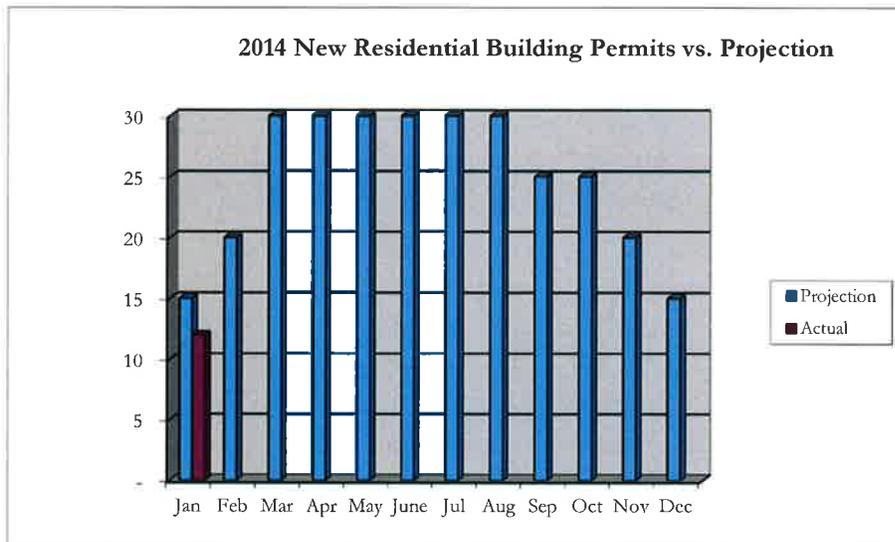
ATTACHMENTS:

- A. 2014/2013/2012 Building Permits to Projection Comparison
- B. Historic Erie Neighborhood Fees Waived

ATTACHMENT A

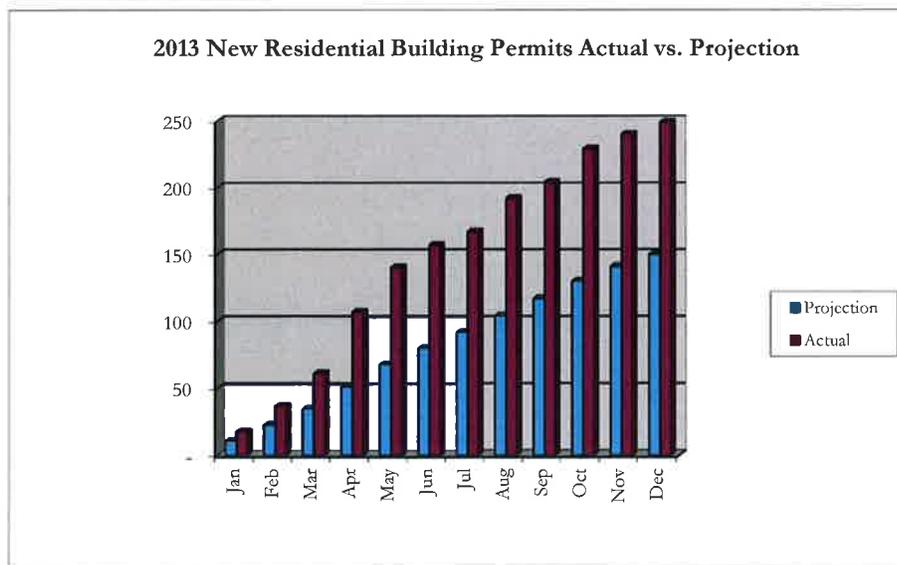
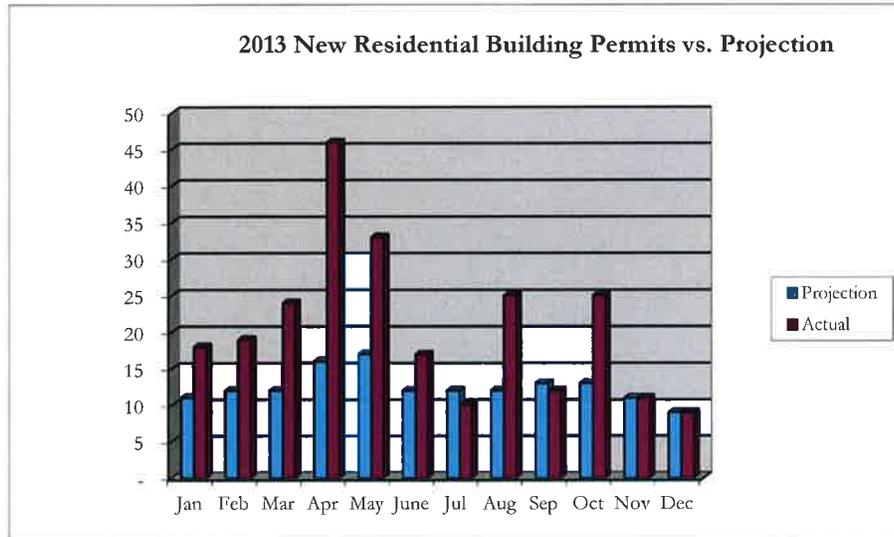
2014 Building Permits to Projection Comparison

2014	Month by Month		Seasonal Projection	Accumulation		
	Projection	Actual		Projection	Actual	
Jan	15	12	8%	Jan	15	12
Feb	20		7%	Feb	35	12
Mar	30		11%	Mar	65	12
Apr	30		12%	Apr	95	12
May	30		10%	May	125	12
June	30		11%	Jun	155	12
Jul	30		10%	Jul	185	12
Aug	30		8%	Aug	215	12
Sep	25		7%	Sep	240	12
Oct	25		6%	Oct	265	12
Nov	20		7%	Nov	285	12
Dec	15		5%	Dec	300	12
Total	300					



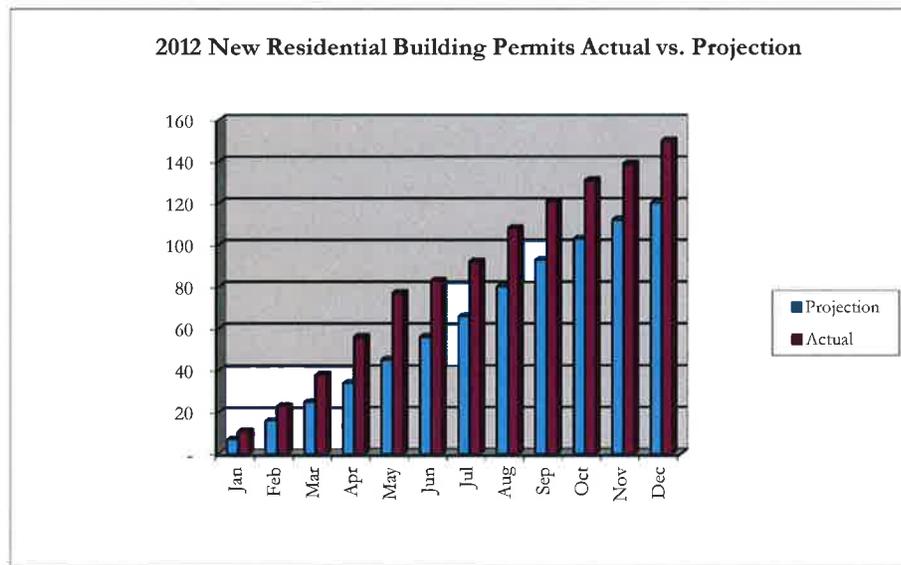
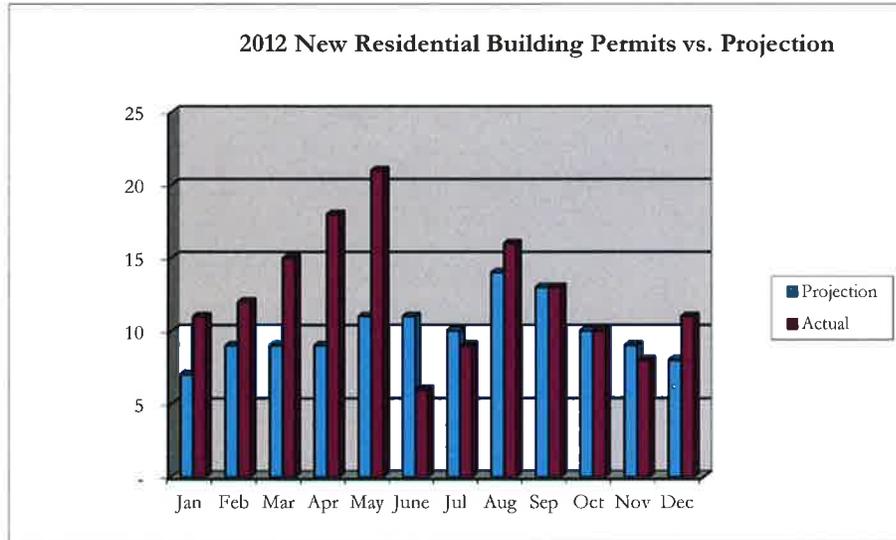
2013 Building Permits to Projection Comparison

2013	Month by Month		Seasonal Projection	Accumulation		
	Projection	Actual		Projection	Actual	
Jan	11	18	8%	Jan	11	18
Feb	12	19	7%	Feb	23	37
Mar	12	24	11%	Mar	35	61
Apr	16	46	12%	Apr	51	107
May	17	33	10%	May	68	140
June	12	17	11%	Jun	80	157
Jul	12	10	10%	Jul	92	167
Aug	12	25	8%	Aug	104	192
Sep	13	12	7%	Sep	117	204
Oct	13	25	6%	Oct	130	229
Nov	11	11	7%	Nov	141	240
Dec	9	9	5%	Dec	150	249
Total	150					



2012 Building Permits to Projection Comparison

2012	Month by Month		Seasonal Projection	Accumulation		
	Projection	Actual		Projection	Actual	
Jan	7	11	8%	Jan	7	11
Feb	9	12	7%	Feb	16	23
Mar	9	15	11%	Mar	25	38
Apr	9	18	12%	Apr	34	56
May	11	21	10%	May	45	77
June	11	6	11%	Jun	56	83
Jul	10	9	10%	Jul	66	92
Aug	14	16	8%	Aug	80	108
Sep	13	13	7%	Sep	93	121
Oct	10	10	6%	Oct	103	131
Nov	9	8	7%	Nov	112	139
Dec	8	11	5%	Dec	120	150
Total	120	120				



ATTACHMENT B

Historic Erie Neighborhood Fees Waived - Ordinance 25-2012

JANUARY 2014

Permit No.	Permit Type	Contractor Name	Home Owner	Property Address	Building Fee	Electrical Fee	Mechanical Fee	Plumbing Fee	Misc. Fee	Total Fees Waived	Use Tax Collected
BP-14-0004	Re-Roof	Roof Check Inc.	Drew Patterson	655 Main Street	\$ 47.00					\$ 47.00	\$ 62.76
BP-14-0005	Re-Roof	AAA Roofing	Harvey Blair	118 Pierce Street	\$ 47.00					\$ 47.00	\$ 42.00
BP-14-0006	Tenant Finish	Vrain Builders	James Van Gerrity	675 Pierce St., #210	\$ 377.25	\$ 45.00	\$ 45.00	\$ 50.00	\$ 245.21	\$ 762.46	\$ 420.00
					\$ 471.25	\$ 45.00	\$ 45.00	\$ 50.00	\$ 245.21	\$ 856.46	\$ 524.76

DECEMBER 2013

Permit No.	Permit Type	Contractor Name	Home Owner	Property Address	Building Fee	Electrical Fee	Mechanical Fee	Plumbing Fee	Misc. Fee	Total Fees Waived	Use Tax Collected
BP-13-1597	Fire Damage	Home Owner	Leonard Lucero	190 Anderson St.	\$ 699.75	\$ 105.00	\$ 85.00	\$ 54.00	\$ 454.84	\$ 1,398.59	\$ 1,029.00
BP-13-1856	Re-Roof	M Construction	Judy Zing	514 Main St.	\$ 47.00					\$ 47.00	\$ 49.00
BP-13-1684	Fence	Home Owner	Anthony Floyd	390 Holbrook St.	\$ 47.00					\$ 47.00	\$ 49.00
BP-13-1831	Re-Roof	Affordable Roofing		275 Briggs St.	\$ 47.00					\$ 47.00	\$ 56.70
					\$ 840.75	\$ 105.00	\$ 85.00	\$ 54.00	\$ 454.84	\$ 1,539.59	\$ 1,183.70

NOVEMBER 2013

Permit No.	Permit Type	Contractor Name	Home Owner	Property Address	Building Fee	Electrical Fee	Mechanical Fee	Plumbing Fee	Misc. Fee	Total Fees Waived	Use Tax Collected
BP-13-1643	Re-Roof	Distinctive Home Rep	Rob Wagner	130 Lawley Dr.			\$ 51.00			\$ 51.00	\$ 49.00
BP-13-1671	Furnace	Flatland H & A	Meadowlark MHP	735 Kattell St.	\$ 47.00		\$ 51.00			\$ 98.00	\$ 80.50
BP-13-1673	Gas Meter	Home Owner	Robert Stevens	535 Cheesman	\$ 23.50					\$ 23.50	\$ 17.50
BP-13-1706	Re-Roof	ASAP Roofing	Isreal Quintana	495 Pierce St	\$ 47.00					\$ 47.00	\$ 70.28
BP-13-1708	Re-Roof	Affordable Roofing	Jill Brekken	335 Anderson Ct.	\$ 47.00					\$ 47.00	\$ 94.50
BP-13-1722	W-Heater	Colo Delta Mech	Dolores Gutierrez	325 Wells St.				\$ 50.00		\$ 50.00	\$ 16.73
BP-13-1723	Re-Roof	Colo Premier Roofing	Bruce Cohen	340 Holbrook St.	\$ 47.00					\$ 47.00	\$ 210.00
BP-13-1740	Re-Roof	National Home Impr	Charles Garcia	765 Pierce St.	\$ 251.25					\$ 251.25	\$ 262.46
BP-13-1778	Furnace	Precision Plumbing	Michael Kamps	770 Pierce St.				\$ 45.00		\$ 45.00	\$ 59.36
BP-13-1772	Re-Roof	A-1 Roofing	Jean Lewis	405 Main St.	\$ 47.00					\$ 47.00	\$ 101.50

Historic Erie Neighborhood Fees Waived - Ordinance 25-2012

BP-13-1769	Re-Roof	Black Roofing	Cynthia Lamb	360 Holbrook St.	\$ 47.00					\$ 47.00	\$ 142.38
Bp-13-1776	Re-Roof	Black Roofing	Ruby Lujan	660 Pierce St.	\$ 47.00					\$ 47.00	\$ 167.51
										\$ -	
										\$ 603.75	\$ 95.00
										\$ -	\$ 749.75
										\$ -	\$ 1,222.72

OCTOBER 2013

Permit No.	Permit Type	Contractor Name	Home Owner	Property Address	Building Fee	Electrical Fee	Mechanical Fee	Plumbing Fee	Misc. Fee	Total Fees Waived	Use Tax Collected
BP-13-1356	Siding Furnace	Home Depot	Christina Porn	654 Moffat Street	\$ 181.25					\$ 181.25	\$ 164.50
BP-13-1359	Install	Northern Co Air Red Diamond	Kathy Sanger	342 Main Street		\$ 51.00				\$ 51.00	\$ 45.01
BP-13-1490	Re-Roof	Roofing	Li, Jia Min	735 Carbon Street	\$ 47.00					\$ 47.00	\$ 52.50
BP-13-1498	Install	Flatland Heating & Air	Meadowlark Trailer Park	735 Kattell St., #113	\$ 51.00					\$ 51.00	\$ 38.50
BP-13-1499	Install	Flatland Heating & Air	Meadowlark Trailer Park	735 Kattell St., #107	\$ 51.00					\$ 51.00	\$ 38.50
BP-13-1341	Door	Creative Exteriors	Jean Lewis	405 Main Street	\$ 97.25	\$ 30.00			\$ 63.21	\$ 190.46	\$ 42.00
BP-13-1636	Install	All Climate Htg	Anduaga, Martha	225 Kattell Street		\$ 68.00				\$ 68.00	\$ 64.42
					\$ 427.50	\$ 30.00	\$ 119.00	\$ -	\$ 63.21	\$ 639.71	\$ 445.43