

EXHIBIT A

Utility Easement Agreement

UTILITY EASEMENT AGREEMENT

This UTILITY EASEMENT AGREEMENT (the "Agreement") is made and executed this _____ day of _____, 2019 (the "Effective Date"), by and between COMMUNITY DEVELOPMENT GROUP OF ERIE, INC., a Colorado corporation with an address of 2500 Arapahoe Avenue, Suite 220, Boulder, CO 80302 ("Grantor"), and the TOWN OF ERIE, a Colorado municipal corporation with an address of P.O. Box 750, 645 Holbrook Street, Erie, CO 80516 (the "Town") (each a "Party" and collectively the "Parties").

WHEREAS, Grantor is the owner of the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, the Town desires to acquire an easement to operate and maintain utility facilities upon and beneath the surface of the property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Easement Property"); and

WHEREAS, Grantor is willing to convey an easement to the Town for the aforesaid purposes on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained here, Grantor and the Town mutually agree as follows:

1. Title to Property. Grantor warrants that it owns in fee title the Easement Property, and that the Easement Property is free and clear of encumbrances and liens except the Easement described and granted herein.
2. Conveyance of Easement. Grantor hereby grants and conveys to the Town, its successors and assigns, a permanent, perpetual, non-exclusive 15-foot wide easement (the "Easement") to enter, occupy and use the Easement Property to construct, reconstruct, use, operate, maintain, repair, patrol, replace, enlarge and remove one raw/reuse water line, conduits, vaults, accessories, improvements, or manholes and all necessary underground wires and appurtenances thereto, including without limitation electric or other control systems, video or other control systems, cables, wires, connections, conduits, and surface appurtenances (the "Improvements") in, through, over, across, under and above the Easement Property.
3. Ingress and Egress. The Town and its employees, agents, contractors, representatives, successors and assigns shall have and exercise the right of ingress and egress in, to, through, over, under, above and across the Easement Property for access to perform construction, reconstruction, operation, installation, use, maintenance, repair, replacement, upkeep, monitoring, and removal of the Improvements.
4. Non-exclusive Use. The Town agrees, following written request to and approval by the Town, that other public utilities such as water, sanitary sewer, storm sewer, gas, electric lines, and other appropriate utilities may be installed in the Easement Property if such utilities do not interfere with the Town's rights as herein granted or the Town's use of the Easement and Easement Property. All surface and subsurface uses of the Easement Property, including fences, must be approved in writing by the Town prior to installation.

5. Maintenance. The Town shall be solely responsible for maintaining the Improvements. All Improvements installed by the Town on the Easement Property shall remain the Town's property.

6. No Interference. Grantor shall not construct or place any structure or building, yard light, shrub, tree, woody plant or nursery stock, whether temporary or permanent, of any kind or nature situated on the Easement Property that will interfere with or obstruct the access or Easement granted herein. Any such prohibited structure or item placed on the Easement Property may be removed by the Town at Grantor's expense and without liability to the Town for damages arising therefrom. Grantor shall retain the right to make use of the Property to the extent that it does not interfere with the Town's rights of the Town in its use of the Easement.

7. Maintenance of Grantor's Improvements. Grantor shall be solely responsible for the maintenance of all Grantor's improvements located within the Easement Property.

8. Retained Rights. Grantor shall have all rights to the Easement Property not granted hereby.

9. Miscellaneous.

a. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

b. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

c. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

d. Third Parties. There are no intended third-party beneficiaries to this Agreement.

e. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent prepaid, first-class United States Mail to the Party at the address set forth on the first page of this Agreement.

f. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. Modification. This Agreement may only be modified upon written agreement of the Parties.

h. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

i. Governmental Immunity. The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town, its officers, attorneys or employees.

j. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF ERIE, COLORADO

Jennifer Carroll, Mayor

ATTEST:

Jessica Koenig, Town Clerk

**COMMUNITY DEVELOPMENT
GROUP OF ERIE, INC.**

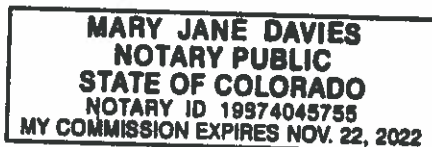
Authorized Representative

STATE OF COLORADO)
) ss.
COUNTY OF Boulder)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 3rd day of May, 2019, by Jon Lee as Authorized Representative of Community Development Group of Erie, Inc.

My commission expires:

(S E A L)



Mary Jane Davies
Notary Public

**EXHIBIT A
LEGAL DESCRIPTION**

A PARCEL OF LAND BEING A PART OF LOT 1 BLOCK 5, ERIE COMMONS FILING NO. 4, AS RECORDED AT RECEPTION NO. 3413827, IN THE OFFICIAL RECORDS OF THE WELD COUNTY CLERK AND RECORDER, LOCATED IN NORTH HALF OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 88 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 19 AND CONSIDERING THE WEST LINE OF SAID NORTHEAST QUARTER TO BEAR SOUTH 00°28'29" EAST, A DISTANCE OF 2,640.79 FEET WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE SOUTH 02°15'15" WEST, A DISTANCE OF 1,125.74 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF SOUTH BRIGGS STREET, AS RECORDED IN SAID ERIE COMMONS FILING NO. 4 AND THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES:

- 1) SOUTH 50°13'36" EAST, A DISTANCE OF 144.78 FEET;
- 2) THENCE SOUTH 54°53'57" EAST, A DISTANCE OF 104.35 FEET;
- 3) THENCE SOUTH 50°13'36" EAST, A DISTANCE OF 291.44 FEET;

THENCE SOUTH 39°05'39" WEST, A DISTANCE OF 18.62 FEET;

THENCE NORTH 50°13'36" WEST, A DISTANCE OF 290.64;

THENCE NORTH 52°54'03" WEST, A DISTANCE OF 104.52 FEET;

THENCE NORTH 50°13'36" WEST, A DISTANCE OF 168.30 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT-OF-WAY OF SOUTH BRIGGS STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 25.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 26°38'54" EAST;

THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 66°25'19", AN ARC LENGTH OF 28.98 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 0.220 ACRES, (9,601 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

JAMES E. LYNCH., PLS 37933
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVE., SUITE 1, LITTLETON, CO 80122
303-713-1898

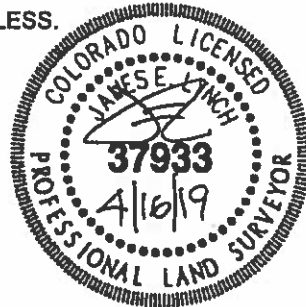
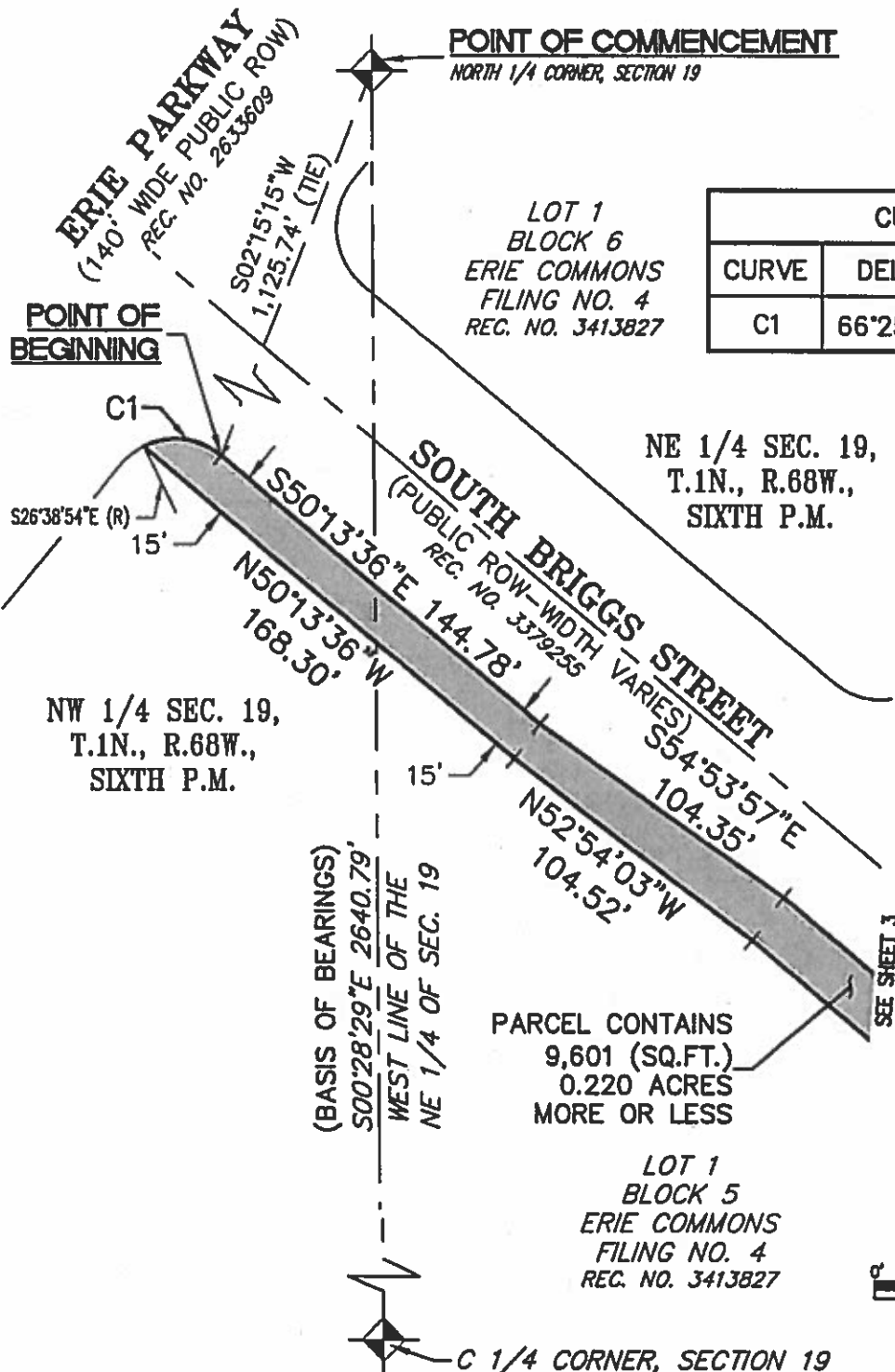


ILLUSTRATION TO EXHIBIT A



NOTE: THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

PATH:
DWG NAME: Office Utility Easement.DWG
DWG: RDR CHK: JET
DATE: 4/16/2019
SCALE: 1" = 60'

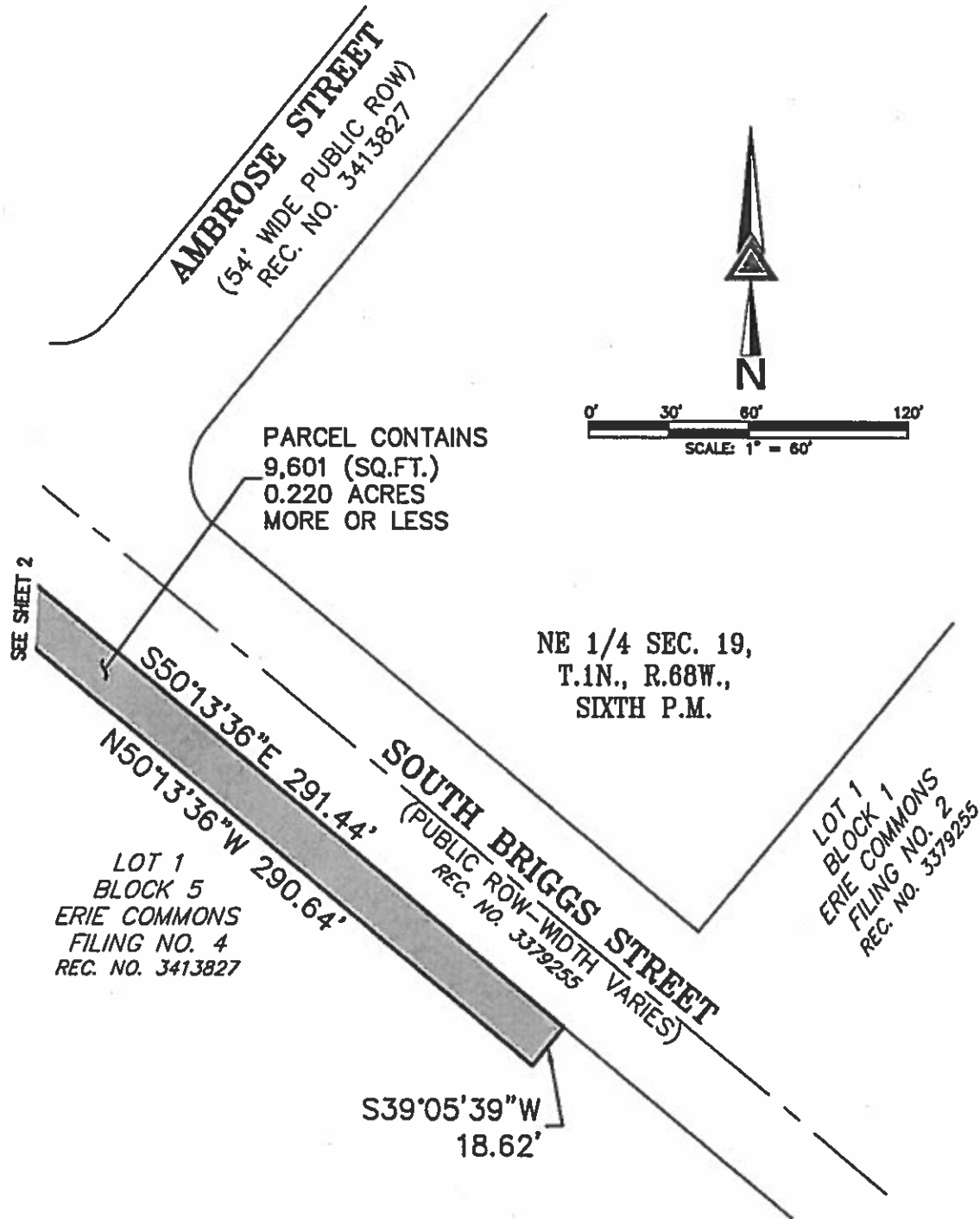
AZTEC
CONSULTANTS, INC.

23417-16 - Erie Commons F4 Replat.Dwg\EXHIBITS

300 East Mineral Ave.
Suite 1
Littleton, Colorado 80122
Phone: (303) 713-1898
Fax: (303) 713-1897
www.aztecconsultants.com

EASEMENT EXHIBIT
N 1/2 SEC. 19, T.1N., R.68W. 6TH P.M.
COUNTY OF WELD, STATE OF COLORADO
JOB NUMBER 23417-16 2 OF 3 SHEETS

ILLUSTRATION TO EXHIBIT A



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PATH:
DWG NAME: Office Utility Easement.DWG
DWG: RDR CHK: JEL
DATE: 4/16/2019
SCALE: 1" = 60'

AZTEC
CONSULTANTS, INC.

Q:\23417-18 - Erie Commons F4 Replot\Draw\DWG\EXHIBITS

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Suite 1
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EASEMENT EXHIBIT

N 1/2 SEC. 19, T.1N., R.68W. 6TH P.M.
COUNTY OF WELD, STATE OF COLORADO
JOB NUMBER 23417-18 3 OF 3 SHEETS