

**Town of Erie
Resolution No. 25-017**

**A Resolution of the Town Council of the Town of Erie Approving an
Annexation Agreement for the Lindow Property**

Whereas, Robert K. Lindow and Sindy L. Lindow ("Owners") are the record owners of the property described in **Exhibit A**, attached hereto and incorporated herein by this reference, with an address of 11975 Kenosha Road (the "Property");

Whereas, on November 21, 2024 the Owners filed a petition to annex the Property to the Town; and

Whereas, following a properly-noticed public hearing commenced on January 28, 2025 and continued to February 25, 2025, the Town Council found the Property eligible for annexation to the Town; and

Whereas, with the annexation, Owners are seeking approval of an agreement to establish the terms of the annexation and allow a subdivision of the Property into two parcels (the "Annexation Agreement"); and

Whereas, the Town Council wishes to approve the Annexation Agreement, which by its terms is not effective in the event the Property is not ultimately annexed by the Town.

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

Section 1. The Town Council hereby approves the Annexation Agreement in substantially the form attached hereto as **Exhibit B**, subject to final approval of the Town Attorney. Upon such approval, the Mayor is authorized to execute the Annexation Agreement on behalf of the Town.

Adopted this 25th day of February, 2025.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Exhibit A
Legal Description

UNPLATTED LANDS RECORDED AT RECEPTION NO. 01319993, BEING SITUATED IN THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 69 WEST, OF THE 6TH PRINCIPAL MERIDIAN, AS MONUMENTED BY A NO. 5 REBAR WITH 2 INCH ALUMINUM CAP ILLEGIBLE AT THE NORTHWEST SIXTEENTH CORNER OF SAID SECTION 12 AND A NO. 5 REBAR WITH A 2 INCH ALUMINUM CAP STAMPED PLS 22579 AT THE NORTH SIXTEENTH CORNER OF SECTIONS 11 AND 12 OF SAID TOWNSHIP 1 NORTH, RANGE 69 WEST IS ASSUMED TO BEAR NORTH 89°50'02" WEST, BEING A GRID BEARING OF THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983/2007, A DISTANCE OF 1332.05 FEET WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTHWEST SIXTEENTH CORNER OF SAID SECTION 12, TOWNSHIP 1 NORTH, RANGE 69 WEST:

THENCE NORTH 89°50'02" WEST ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12 A DISTANCE OF 55.09 FEET TO THE POINT OF BEGINNING;

THENCE ON THE EXTERIOR BOUNDARY OF SAID UNPLATTED LANDS RECORDED AT RECEPTION NO. 01319993 THE FOLLOWING SIX (6) COURSES:

1. CONTINUING NORTH 89°50'02" WEST A DISTANCE OF 838.58 FEET;
2. NORTH 01°18'37" WEST A DISTANCE OF 280.07 FEET;
3. NORTH 89°50'02" WEST A DISTANCE OF 434.46 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 12;
4. NORTH 00°29'17" WEST ON THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 12 A DISTANCE OF 113.47 FEET;
5. SOUTH 89°50'02" EAST A DISTANCE OF 1276.14 FEET;
6. SOUTH 00°36'26" EAST A DISTANCE OF 393.48 FEET TO THE POINT OF BEGINNING.

TOWN OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO.
SAID PARCEL CONTAINING 380,076 SQUARE FEET OR 8.73 ACRES MORE OR LESS.

EXHIBIT B
Annexation Agreement
[attached]



Annexation Agreement

This Annexation Agreement (the "Agreement") is made and entered into this _____ day of _____, 2024 (the "Effective Date") by and between the Town of Erie, a Colorado municipality with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516 (the "Town"), and Robert K. Lindow and Sindy L. Lindow, individuals with an address of 11995 Kenosha Road, Erie, CO 80516 (collectively, "Owner") (each a "Party" and collectively the "Parties").

Whereas, Owner is the owner of certain real property located in unincorporated Boulder County and more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property");

Whereas, Owner desires to have the Property annexed to the Town;

Whereas, the Town wishes to annex the Property into the Town upon the terms and conditions set forth herein.

Now, therefore, in consideration of the foregoing recitals, mutual covenants, and promises set forth below, the receipt and sufficiency of which are mutually acknowledged, the Parties hereby agree as follows:

1. Annexation. The annexation of the Property shall be in accordance with the Colorado Municipal Annexation Act of 1965, as amended.
2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the Town. Unless otherwise expressly provided to the contrary herein, all conditions contained herein are in addition to any and all requirements of the Erie Municipal Code, as amended, and other applicable law.
3. Sewer Service. The Property is currently on a private septic system and the Town does not currently have a sewer main in the vicinity of the Property. The Property shall continue to be served by the private septic system until such time as the Town constructs a sewer main along Kenosha Road, and at such time, Owner hereby agrees to connect to the Town's sewer system and pay all associated costs. Owner shall be solely responsible for maintenance of the private septic system in compliance with applicable law. To avoid any ambiguity, when the Property is subdivided, both lots shall be subject to this requirement.
4. Water Service. The Property is currently provided with water service by the Left Hand Water District and the Town does not currently have a water main in the vicinity of the Property. The Property shall continue to be served by the Left Hand Water District until such time as the Town constructs a water main along Kenosha Road, and at such time Owner hereby agrees to connect to the Town's water system and pay all associated costs. At such time, the Property shall be excluded from the Left Hand Water District and the transfer of water service to the Town shall proceed in accordance

with the Agreement Regarding Water Service and Boundaries between the Town of Erie and the Left Hand Water District, recorded with the Boulder County Clerk and Recorder at Reception No. 2294066 on June 6, 2002, as amended. To avoid any ambiguity, when the Property is subdivided, both lots shall be subject to this requirement.

5. Easements. Owner agrees to acquire at its own expense and to dedicate to the Town by special warranty deed all utility easements within the Property as necessary to provide for the location of water and sewer distribution, collection and transmission lines and related facilities.

6. Initial Zoning. Owner hereby consents to the initial zoning of the Property as Agricultural Holding (AGH) as defined by the Erie Municipal Code, subject to Section 7 hereof.

7. Subdivision.

a. The Parties acknowledge that the Property currently contains two single-family residential structures on a single lot, but with two different addresses (11975 and 11995 Kenosha Road) and two different access drives to Kenosha Road. The Parties further acknowledge that the applicable regulations for the AGH zone district do not allow subdivision. However, to avoid creating two nonconforming lots, the Parties agree that a single subdivision shall be permitted, to be accomplished at the same time as the annexation, to create two conforming lots.

b. Upon annexation, the Property shall be subdivided into two lots, on the following conditions: no lot shall be less than 0.65 acre; each lot shall contain one single-family structure; each lot shall have its own access to Kenosha Road without the need for an access easement for primary access to the lot; each lot shall continue to have its own unique address; and each lot shall be zoned AGH.

c. Owner shall be responsible for all costs associated with the subdivision, including the preparation of the required subdivision plat.

d. If Boulder County requires an upgrade to the private septic system, it shall be Owner's sole responsibility to address these issues at Owner's sole cost and expense.

e. No further subdivision of the Property shall be permitted, unless either or both of the lots are rezoned to a zone district that would allow further subdivision under the Erie Municipal Code.

8. Vested Rights. Upon annexation, Owner waives any prior vested property rights that may have been acquired in Boulder County and acknowledges that this Agreement creates no new vested rights.

9. Authority of the Town. Nothing in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abrogation of the Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of the Town or its inhabitants.

10. Termination. If the zoning and subdivision set forth herein are not approved by the Town, or if the annexation of the Property is not completed, then this Agreement shall be null and void and of no force and effect whatsoever.

11. Property Tax Rebate. Owner currently qualifies for the State's Senior Homestead Tax Exemption, which provides a discount for property taxes assessed against the Property by the State and Boulder County. The Town agrees that, in each year Owner continues to qualify for the Senior Homestead Tax Exemption, the Town shall rebate all Town property taxes paid for the Property. This rebate obligation shall be non-transferable, shall only apply to Owner, and shall only apply if Owner continues to qualify for the Senior Homestead Tax Exemption. The rebate shall be made on or before August 31st of each year, and the rebate shall only be made if the property taxes due have been paid in full.

12. 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 Boulder County, Colorado.

b. *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.

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

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 pre-paid, first class U.S. 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 and 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

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Robert K. Lindow

Robert K. Lindow

Sindy L. Lindow

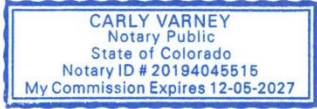
Sindy Lindow

State of Colorado)
County of Boulder) ss.

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 16th day of May, 2024, by Robert K. Lindow and Sindy L. Lindow.

My commission expires: 12/05/2027

(Seal)



Carly Varney
Notary Public