

## **Gas Line Easement Agreement**

This Gas Line Easement Agreement (the "Agreement") is made as of \_\_\_\_\_, 2021 (the "Effective Date") by and between the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, Erie, Colorado 80516 (the "Town"), and FS Erie Estates, LLC, a Colorado limited liability company with an address of 9754 Sunset Hill Drive, Lone Tree, Colorado 80124 ("Grantee") (each a "Party" and collectively the "Parties").

Whereas, the Town owns the real property more particularly described as Tract B Sunset Minor Subdivision, pursuant to the plat recorded March 13, 2013 at Reception No. 3916652 of the records of the Clerk and Recorder for Weld County, Colorado (the "Property"); and

Whereas, Grantee is the owner of certain lands adjacent to the Property, on which Grantee intends to construct a residential development ("Sunset").

Now, Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Grant of Easement.** The Town hereby grants to Grantee and its successors and assigns a perpetual right-of-way and easement (the "Easement") for the purposes of surveying, constructing, maintaining, cathodically protecting, inspecting, operating, repairing, replacing, modifying, changing the size of, reconstructing, marking, monitoring, abandoning, removing or relocating and releasing, at Grantee's election, two pipelines, electric power lines, data transmission lines and equipment, and all associated appurtenances below and above ground, as necessary or convenient for the transportation or transmission of oil, gas, petroleum products, water, electricity, electronic data, hydrocarbons and any other substances, whether electronic, fluid, solid or gaseous (the "Improvements"), in, on, over, under, or through the Property in the Easement Area, which is as follows: 85 feet in width during construction activities and 30 feet in width at all other times, as described in more particular detail on **Exhibit A**, attached hereto and incorporated herein by this reference.
2. **Temporary Construction Easement.** During construction, Grantee may utilize temporary workspace parallel and adjacent to the Easement Area shown on **Exhibit A**. Except in the case of emergency, Grantee shall deliver to the Town advance written notice of its use of such temporary workspace.
3. **Representations and Warranties.** The Town represents and warrants to Grantee that it holds the entirety of the fee simple interest in the Property and that Town has the full right, power and authority to execute and deliver this Agreement to Grantee.
4. **Reserved Rights.** The Town hereby reserves all rights of ownership and use to the Property which are not inconsistent with the purposes of the Easement.

5. Construction Requirements.

a. Grantee shall bury pipelines and appurtenances constructed underground at a depth of not less than 36 inches below the surface of the ground. The Town shall not increase or decrease the surface elevation on the Easement Area without Grantee's prior written consent.

b. Grantee shall repair and restore fencing on or adjacent to the Easement Area removed or severed by Grantee to the condition such fencing was in prior to such removal or severance.

c. Promptly after Grantee conducts any activities on the Property which in any manner have disturbed the surface of the Property, Grantee shall restore said surface to the condition in which it was in prior to Grantee's activities, at Grantee's sole cost and expense, including leveling and sufficiently compacting the soil to its condition immediately prior to such operations.

d. If there is a deviation in the Easement Area as constructed, then the Parties shall each execute, notarize, and deliver, and Grantee shall record, a notice of pipeline location and an amendment to this Agreement with an as-built survey plat.

6. Town's Obligations. The Town shall not build, create, construct or permit to be built, created or constructed, any obstruction, building, fencing, reservoir or other structure over, under, on or across the Easement Area without the prior written consent of Grantee, which consent shall not be unreasonably withheld except where such object would interfere with or cause a safety hazard in connection with the use or operation of the Grantee's Improvements; provided, however, that the Town may construct, use, operate, and maintain trails within the Easement Area that cross the pipeline at an angle no less than 60 degrees from the center line of the pipeline, but are otherwise not constructed directly over the course of the pipeline. Notwithstanding the foregoing, the Town may construct, use, operate, and maintain gravel or other unpaved recreational trails within the Easement Area with adhering to the requirements of the foregoing sentence.

7. Grantee's Rights. Grantee shall have all rights, privileges and benefits necessary or convenient for the full use and enjoyment of the Easement, including but not limited to the right of ingress and egress over and across Town's lands lying adjacent to the Easement Area for any and all purposes necessary to exercising Grantee's rights and obligations hereunder. Notwithstanding the foregoing, the Grantee's vehicular access to the Easement Area will be limited to the numbered locations shown on the attached **Exhibit A**. Except in the case of emergency, Grantee shall deliver to the Town advance written notice of its use of such adjacent lands.

8. Grantee's Obligations.

a. All activities by or on behalf of Grantee pursuant to this Agreement shall be conducted in compliance with and subject to all applicable local, state and federal statutes, ordinances, resolutions, regulations, policies, procedures and laws.

b. Grantee shall repair, replace or otherwise compensate Town for damages resulting from Grantee's operations on the Easement Area, except for damage to structures or improvements placed in the Easement Area contrary to the provisions herein.

c. Grantee shall be solely responsible for owning, operating, and maintaining the Improvements. If Grantee fails to properly maintain the Improvements, the Town has the right to maintain the Improvements, subject to reimbursement from Grantee.

9. Recordation. Except as otherwise expressly provided herein, all provisions of this Agreement, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Grantee shall record this Agreement in timely fashion in the official records of Weld County and may re-record it at any time as may be required to preserve its rights in this Agreement.

10. 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. *Governmental Immunity.* The Parties and their 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 Parties or their officers, attorneys or employees.

i. *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.

j. *Assignment.* The rights granted herein may be assigned in whole or in part. Grantee shall, no later than thirty (30) days following assignment of this Agreement, provide written notice to the Town of such assignment, which notice shall, at a minimum, identify the assignee by name and mailing address.

l. *Counterparts.* This Agreement may be executed in counterparts, each of which shall be considered the same instrument.

*[Execution Page Follows]*

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

**Town of Erie, Colorado**

\_\_\_\_\_  
Malcolm Fleming, Town Administrator

Attest:

\_\_\_\_\_  
Heidi Leatherwood, Town Clerk

**Grantee**

FS Erie Estates, LLC, a Colorado limited liability company

By: Stephen J. Foley  
Stephen J. Foley, Manager

State of Colorado )  
County of Douglas ) ss.  
)

The foregoing Easement Agreement was acknowledged before me on Nov 22, 2021, by Stephen J. Foley as Manager of FS Erie Estates, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires:

Lauri A. Murphy  
Notary Public



**Exhibit A to Gas Line Easement Agreement**  
**Description of Easement Area**

*Follows this page*

**EXHIBIT A**

Attachment to that certain Right of Way Grant, by and between Town of Erie, as "Grantor", and  
KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".  
Sheet 1 of 2

A 30 foot wide strip of land being a portion of Tract B, Sunset-Minor Subdivision, filed at Reception Number 3916652, conveyed to the Town Of Erie, filed at Reception Number 3917301, in the southeast quarter of Section 20, Township 1 North, Range 68 West of the Sixth Principal Meridian, in the Town of Erie, County of Weld, State of Colorado, said 30 foot wide strip being 15 feet each side of the following described centerline:

**Note:**

1. The Basis of Bearings is the east line of the southeast quarter of Section 20, T1N, R68W, 6th P.M., as monumented with an aluminum cap PLS 26606 at the north end and an aluminum cap PLS 13155 at the south end with a grid bearing of S 00°06'24" E.
2. The side lines of the strip of land are to be lengthened and/or shortened as necessary to end at the property lines.
3. All directions, distances, and dimensions shown hereon are based on coordinates from the Colorado coordinate system of 1983 north zone (C.R.S. 38-52-102), U.S. Survey feet.
4. This is not a boundary survey or a land survey plat.

Commencing at the south quarter corner of Section 20, a 3.25-inch aluminum cap PLS 26606;  
Thence N 00°29'02" E, a distance of 1,255.86 feet, more or less, to a point on the a north line of Tract B, and  
the POINT OF BEGINNING:

- Thence S 00°12'02" E, a distance of 16.04 feet;
- Thence S 69°25'31" E, a distance of 1,072.72 feet;
- Thence S 89°59'59" E, a distance of 221.32 feet;
- Thence S 79°44'30" E, a distance of 419.89 feet;
- Thence S 89°59'59" E, a distance of 230.65 feet;
- Thence S 69°07'36" E, a distance of 583.84 feet;

Thence N 89°59'55" E, a distance of 145.90 feet to the POINT OF TERMINUS from which an aluminum cap PLS 13155 at the southeast corner of said Section 20 bears S 06°18'53" E, a distance of 554.84 feet.

Right of Way A Length: 2,690.36 feet.

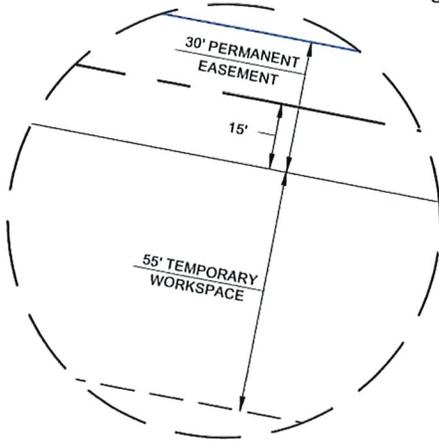
Prepared by David C. Costner  
For and on behalf of  
Topographic Land Surveyors  
520 Stacy Ct. Ste B, Lafayette, CO 80026  
303 666 0379



	KERR-McGEE		Township: 1 North	1"= 600'	AFE: 89438765
	Right of Way Survey		Range: 68 West 6th PM		Tracking:
			County: Weld	03/28/2018	SRID: 10830
			State: Colorado	BY: MEH	REV2
					Job Number: 114607

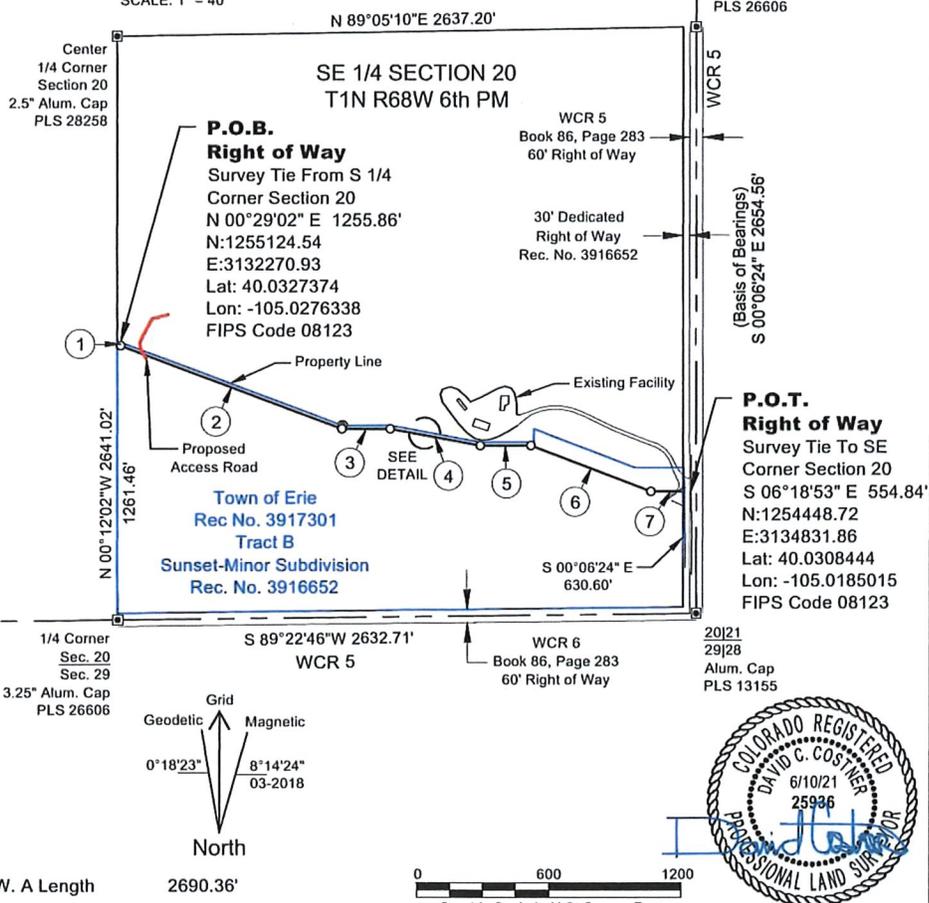
### EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Town of Erie, as "Grantor", and KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".  
Sheet 2 of 2



LINE TABLE

LINE	BEARING	DISTANCE
1	S 00°12'02" E	16.04'
2	S 69°25'31" E	1072.72'
3	S 89°59'59" E	221.32'
4	S 79°44'30" E	419.89'
5	S 89°59'59" E	230.65'
6	S 69°07'36" E	583.84'
7	N 89°59'55" E	145.90'



<p><b>TOPOGRAPHIC</b> LOYALTY INNOVATION LEGACY 520 Stacy Court Ste B, Lafayette, CO 80026 303.666.0379 www.topographic.com</p>	KERR-McGEE Right of Way Survey		AFE: 89438765
	Township: 1 North	1" = 600'	Tracking:
	Range: 68 West 6th PM	03/28/2018	SRID: 10830
	County: Weld	BY: MEH	REV2
	State: Colorado	Job Number: 114607	

DWG: G:\GEO\SURV\Weld\North\KERR\MCGEE GATHERING\FS Erie Estates LLC\FINAL PRODUCTS\EP\_FS\_ERIE\_ESTATES\_LLC\_ERIE\_REV2.dwg USER: mcbe-tson DATE PRINTED: 6/10/2021 11:19:24 AM