

**RESOLUTION NO. 17-\_\_\_**

**A RESOLUTION FINDING SUBSTANTIAL COMPLIANCE OF PETITION FOR ANNEXATION OF CERTAIN REAL PROPERTY TO THE TOWN OF ERIE, SAID ANNEXATION TO BE KNOWN AS ERIE GATEWAY SOUTH ANNEXATION NO. 7**

**WHEREAS**, Petitions for Annexation of certain real property have been filed with the Board of Trustees of the Town of Erie, Colorado by the landowners thereof: Arlene C. Penner, and Michael A. Thero & Donna F. Pattee; and

**WHEREAS**, the Board of Trustees wishes to consider annexation of the subject real property; and

**WHEREAS**, the Board of Trustees has reviewed the Petitions for Annexation and desires to adopt by Resolution its findings in regard to the Petitions;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO**, as follows:

1. The Petitions for Annexation of real property, whose legal descriptions are attached hereto as "Exhibit A" and incorporated by reference herein and whose nearest cross streets are Baseline Road and North 119<sup>th</sup> Street, is in substantial compliance with the applicable requirements of C.R.S. §31-12-101 *et seq.*
2. The Board of Trustees, in accordance with C.R.S. §31-12-108, will hold a public hearing for the purpose of determining if the proposed annexation complies with the applicable provisions of Article II Section 20 of the Colorado Constitution and C.R.S. §31-12-104, and with C.R.S. §31-12-105, at the Erie Town Hall, 645 Holbrook Street, Erie, Colorado 80516, at the following time and date:

6:30 PM

January 9, 2018

3. Any person may appear at such hearing and present evidence relative to the proposed annexation.
4. Upon completion of the hearings, the Board of Trustees shall set forth, by resolution, its findings and conclusions with reference to the eligibility of the proposed annexation, and whether the constitutional and statutory requirements for the proposed annexation have been met.
5. The appropriate Town Officials are hereby authorized to sign and bind the Town to this Resolution.

**INTRODUCED, READ, SIGNED AND APPROVED** this 14<sup>th</sup> day of November 2017.

TOWN OF ERIE

By: \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, CMC, Town Clerk

## Exhibit A

A PARCEL OF LAND LOCATED IN SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 3.25" ALUMINUM CAP, LS 13155 IN RANGE BOX

- NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 1.5" ALUMINUM CAP, LS 4846.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36;

THENCE N 89°45'33" E ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291 AND THE POINT OF BEGINNING;

THENCE N 89°45'33" E CONTINUING ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1292.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285;

THENCE S 89°49'19" E ALONG SAID SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285 A DISTANCE OF 1319.99 FEET TO A POINT ON THE WESTERLY LINE OF THE ERIE GATEWAY SOUTH ANNEXATION NO.1, ORD 33-2016, RECEPTION NO. 03573283;

THENCE S 00°20'01" E ALONG SAID WESTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283 A DISTANCE OF 65.00 FEET;

THENCE N 87°03'19" W A DISTANCE OF 573.88 FEET;

THENCE S 00°11'08" E A DISTANCE OF 1209.44 FEET;

THENCE S 89°36'44" W A DISTANCE OF 60.00 FEET;

THENCE N 00°11'08" W A DISTANCE OF 553.00 FEET;

THENCE S 89°36'44" W A DISTANCE OF 1681.33 FEET;

THENCE N 00°20'16" W A DISTANCE OF 4.50 FEET;

THENCE S 89°36'44" W A DISTANCE OF 297.00 FEET TO A POINT ON SAID EASTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291;

THENCE N 00°18'39" W ALONG SAID EASTERLY LINE A DISTANCE OF 699.93 FEET TO THE POINT OF BEGINNING;

CONTAINING 1,490,168 SQ. FT. OR 34.2096 ACRES MORE OR LESS.

TO: THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

RE: PETITION FOR ANNEXATION FOR ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE

DATE: 08/29/2017

The undersigned landowner ("Petitioner"), in accordance with it's the Municipal Annexation Act of 1965 as set forth in Article 12, Title 31, Colorado Revised Statutes, as amended and as in effect on the submission date set forth below ("Act"), hereby petitions the Board of Trustees of the Town of Erie for annexation to the Town of Erie ("Town") of the following unincorporated territory located in the County of Boulder and State of Colorado, the property being more particularly described by its legal description in "Exhibit A," which is attached hereto and incorporated herein by reference ("Property").

In support of this petition for annexation ("Petition"), Petitioner further alleges to the Board of Trustees of the Town that:

1. It is desirable and necessary that the territory described above be annexed to the Town.
2. The requirements of C.R.S. §§ 31-12-104 and 31-12-105 of the Act exist or have been met in that:
  - a) Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the Town or will be contiguous with the Town within such time as required by C.R.S. § 31-12-104 of the Act.
  - b) A community of interest exists between the area proposed to be annexed and the Town.
  - c) The area proposed to be annexed is urban or will be urbanized in the near future.
  - d) The area proposed to be annexed is integrated with or is capable of being integrated with the Town.
  - e) No land within the boundary of the territory proposed to be annexed which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels were separated by a dedicated street, road or other public way.
  - f) No land within the boundary of the area proposed to be annexed which is held in identical ownership, comprises twenty (20) acres or more, and which, together with the buildings and improvements situated thereon

has an assessed value in excess of two hundred thousand dollars (\$200,000.00) for ad valorem tax purposes for the year next preceding the annexation, has been included within the area proposed to be annexed without the written consent of the landowner or landowners.

- g) The Property is not presently a part of any incorporated city, city and county, or town; nor have any proceedings been commenced for incorporation or annexation in an area that is part or all of the Property; nor has any election for annexation of the Property or substantially the same territory to the Town been held within the twelve (12) months immediately preceding the filing of this Petition.
  - h) The annexation of the territory proposed to be annexed will not result in the detachment of area from any school district or attachment of same to another school district.
  - i) Except to the extent necessary to avoid dividing parcels within the Property held in identical ownership, at least fifty percent (50%) of which are within the three-mile limit, the proposed annexation will not extend the municipal boundary of the Town more than three (3) miles in any direction from any point of the current municipal boundary in any one year.
  - j) Prior to completion of the annexation of the territory proposed to be annexed, the Town will have in place a plan for that area, which generally describes the proposed: Location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the Town; and the proposed land uses for the area; such plan to be updated at least once annually.
  - k) In establishing the boundary of the territory proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the territory to be annexed.
  - l) The Town will not deny reasonable access to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed to the Town but is not bounded on both sides by the Town.
3. Petitioner comprises more than fifty percent (50%) of the landowners in the Property owning more than fifty percent (50%) of the Property, excluding public streets, alleys and any land owned by the annexing municipality, and the Petitioner hereby consents to the establishment of the boundaries of the Property as shown in the annexation maps submitted herewith. The legal description of the portion of the Property owned by the Petitioner is set forth in "Exhibit B," attached hereto and incorporated herein by reference.

4. Accompanying this Petition are four (4) copies of an annexation map (Annexation Map for Erie Gateway South Annexation No. 7) containing the following information:
  - a) A written legal description of the boundaries of the area proposed to be annexed;
  - b) A map showing the boundary or the area proposed to be annexed, said map prepared and containing the seal of a registered engineer;
  - c) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
  - d) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town and the contiguous boundary of any other municipality abutting the area proposed to be annexed, and a showing of the dimensions of such contiguous boundaries.
5. The affidavit of the circulator of this Petition certifying that the signature on this Petition is the signature of each person whose name it purports to be certifying the accuracy of the date of such signatures is attached hereto as "Exhibit C" and is incorporated herein by this reference.
6. The proposed annexation of the Property complies with § 30(1)(b) of Article II of the Colorado Constitution.
7. The Petitioner signed this Petition no more than one hundred eighty (180) days prior to the date of the filing of this Petition with the Town.
8. Upon the annexation ordinance becoming effective, the Property proposed to be annexed will become subject to all ordinances, rules and regulations of the Town, except for general property taxes of the Town which shall become effective as the January 1 next ensuing following the effectiveness of the annexation.
9. Petitioner has filed this Petition subject to the following conditions, and the consent of Petitioner to annexation of the Property to the Town is conditioned upon satisfaction of the following conditions, any one or more of which may be waived by OEO, LLC, a Colorado limited liability company ("Purchaser"), in its sole discretion:
  - a) Concurrently with its approval of annexation of the Property, the Town approves (i) zoning for the Property to the Low Density Residential zone district under the Town's Unified Development Code; (ii) annexation of that certain property set forth in that certain petition for annexation to the Town and accompanying annexation map for Erie Gateway South Annexation No. 7 (the "Additional Annexation Property"); and (iii) zoning for the Additional Annexation Property to the Low Density Residential zone district under the Town's Unified Development Code.

- b) Petitioner hereby reserves the sole, exclusive and unilateral right, for the benefit of, and to be exercised solely by, Purchaser, to withdraw this Petition by Purchaser so notifying the Clerk of the Town in writing at any point prior to the later to occur of: (i) the latest final, non-appealable approval of the final ordinance(s) or other final approval(s) approving (A) annexation of the Property and the Additional Annexation Property to the Town; and (B) zoning of the Property and the Additional Annexation Property as contemplated herein; or (ii) final, non-appealable approval of any "Legal Challenge." For purposes of this Petition, "Legal Challenge" means either (i) any third party commences any legal proceeding or other action that directly or indirectly challenges the annexation of the Property and/or any portion of the Additional Annexation Property, or any of the Town's ordinances, resolutions or other approvals approving any of the foregoing; or (ii) any third party submits a petition for a referendum seeking to reverse or nullify any of such ordinances.
  - c) Prior to the expiration of the period described in the foregoing subparagraph b) without Petitioner having withdrawn this Petition, neither Petitioner nor the Town shall cause or permit the occurrence of the conditions to effectiveness of the annexation as set forth in Section 31-12-113(2)(b) of the Act.
10. Except for the terms and conditions of this Petition, which terms and conditions Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of Sections 31-12-107(4), -110(2), -111 or -112(1) of the Act, Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the Town.

WHEREFORE, the following Petitioner respectfully requests that the Town, acting through its Board of Trustees, approve the annexation of the Property pursuant to the provisions of the Act.

[Signature Page to Follow]

Respectfully submitted this 8 day of September, 2017. By this acknowledgment, the undersigned hereby certify that the above information is complete and true.

OWNER:

Name of Owner: Aelene C. Penner

By: Aelene C Penner

Title: Owner

Date of Signature: September 8 2017

Mailing Address:  
12177 Baseline  
Lafayette Hts CO 80026  
\_\_\_\_\_  
\_\_\_\_\_

Resident of the Property: yes

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF Jebberson )

The foregoing instrument was acknowledged before me this 8 day of September, 2017 by CP.

My commission expires: 6/27/21

Witness My hand and official seal.

Notary Public



**EXHIBIT A**

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED

**ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE**

A PARCEL OF LAND LOCATED IN SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 3.25" ALUMINUM CAP, LS 13155 IN RANGE BOX

- NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 1.5" ALUMINUM CAP, LS 4846.

**COMMENCING** AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36;

THENCE N 89°45'33" E ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291 AND THE **POINT OF BEGINNING;**

THENCE N 89°45'33" E CONTINUING ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1292.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285;

THENCE S 89°49'19" E ALONG SAID SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285 A DISTANCE OF 1319.99 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE WESTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283;

THENCE S 00°20'01" E ALONG SAID WESTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283 A DISTANCE OF 65.00 FEET;

THENCE N 87°03'19" W A DISTANCE OF 573.88 FEET;

THENCE S 00°11'08" E A DISTANCE OF 1209.44 FEET;

THENCE S 89°36'44" W A DISTANCE OF 60.00 FEET;

THENCE N 00°11'08" W A DISTANCE OF 553.00 FEET;

THENCE S 89°36'44" W A DISTANCE OF 1681.33 FEET;

THENCE N 00°20'16" W A DISTANCE OF 4.50 FEET;

1401656.2

THENCE S 89°36'44" W A DISTANCE OF 297.00 FEET TO A POINT ON SAID EASTERLY LINE OF  
ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291;

THENCE N 00°18'39" W ALONG SAID EASTERLY LINE A DISTANCE OF 699.93 FEET TO THE **POINT  
OF BEGINNING;**

CONTAINING 1,490,168 SQ. FT. OR 34.2096 ACRES MORE OR LESS.

**EXHIBIT B**

LEGAL DESCRIPTION OF LAND OWNED BY EACH PETITIONER

**ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE LEGAL DESCRIPTION OF LAND OWNED BY ARLENE PENNER**

A PARCEL OF LAND LOCATED IN SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 3.25" ALUMINUM CAP, LS 13155 IN RANGE BOX

- NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 1.5" ALUMINUM CAP, LS 4846.

**COMMENCING** AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36;

THENCE N 89°45'33" E ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY LINE OF ERIE GATEWAY ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291 AND THE POINT OF **BEGINNING**;

THENCE N 89°45'33" E CONTINUING ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1292.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF ERIE GATEWAY ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285;

THENCE S 89°49'19" E ALONG SAID SOUTHERLY LINE OF ERIE GATEWAY ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285 A DISTANCE OF 182.64 FEET;

THENCE S 86°59'11" E A DISTANCE OF 1139.24 FEET TO A POINT ON THE WESTERLY LINE OF ERIE GATEWAY ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283;

THENCE S 00°20'01" E ALONG SAID WESTERLY LINE OF ERIE GATEWAY ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283 A DISTANCE OF 8.63 FEET;

THENCE N 87°03'19" W A DISTANCE OF 573.88 FEET;

THENCE S 00°11'08" E A DISTANCE OF 1209.44 FEET;

THENCE S 89°36'44" W A DISTANCE OF 60.00 FEET;

THENCE N 00°11'08" W A DISTANCE OF 553.00 FEET;

THENCE S 89°36'44" W A DISTANCE OF 1259.91 FEET;

THENCE N 00°19'25" W A DISTANCE OF 496.98 FEET;

THENCE S 89°36'44" W A DISTANCE OF 718.32 FEET TO A POINT ON SAID EASTERLY LINE OF  
ERIE GATEWAY ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291;

THENCE N 00°18'39" W ALONG SAID EASTERLY LINE A DISTANCE OF 207.45 FEET TO THE **POINT  
OF BEGINNING;**  
CONTAINING 1,102,438 SQ. FT. OR 25.3085 ACRES MORE OR LESS.

EXHIBIT C

Affidavit of Circulator

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Jefferson )

Matthew Carmanugh, being first duly sworn upon oath, deposes and says that he was the circulator of this Petition for Annexation of lands to the Town of Erie, Colorado, consisting of Nine (9) pages including this page and that each signature hereon was witnessed by your affiant and is the signature of the person whose name it purports to be.

CIRCULATOR

By: [Signature]  
Name: Matt Carmanugh

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Jefferson )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of September, 2017 by [Signature].

My commission expires: 6/27/21

Witness My hand and official seal.



Notary Public

TO: THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

RE: PETITION FOR ANNEXATION FOR ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE

DATE: 08/29/2017

The undersigned landowner ("Petitioner"), in accordance with it's the Municipal Annexation Act of 1965 as set forth in Article 12, Title 31, Colorado Revised Statutes, as amended and as in effect on the submission date set forth below ("Act"), hereby petitions the Board of Trustees of the Town of Erie for annexation to the Town of Erie ("Town") of the following unincorporated territory located in the County of Boulder and State of Colorado, the property being more particularly described by its legal description in "Exhibit A," which is attached hereto and incorporated herein by reference ("Property").

In support of this petition for annexation ("Petition"), Petitioner further alleges to the Board of Trustees of the Town that:

1. It is desirable and necessary that the territory described above be annexed to the Town.
2. The requirements of C.R.S. §§ 31-12-104 and 31-12-105 of the Act exist or have been met in that:
  - a) Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the Town or will be contiguous with the Town within such time as required by C.R.S. § 31-12-104 of the Act.
  - b) A community of interest exists between the area proposed to be annexed and the Town.
  - c) The area proposed to be annexed is urban or will be urbanized in the near future.
  - d) The area proposed to be annexed is integrated with or is capable of being integrated with the Town.
  - e) No land within the boundary of the territory proposed to be annexed which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels were separated by a dedicated street, road or other public way.
  - f) No land within the boundary of the area proposed to be annexed which is held in identical ownership, comprises twenty (20) acres or more, and which, together with the buildings and improvements situated thereon

has an assessed value in excess of two hundred thousand dollars (\$200,000.00) for ad valorem tax purposes for the year next preceding the annexation, has been included within the area proposed to be annexed without the written consent of the landowner or landowners.

- g) The Property is not presently a part of any incorporated city, city and county, or town; nor have any proceedings been commenced for incorporation or annexation in an area that is part or all of the Property; nor has any election for annexation of the Property or substantially the same territory to the Town been held within the twelve (12) months immediately preceding the filing of this Petition.
  - h) The annexation of the territory proposed to be annexed will not result in the detachment of area from any school district or attachment of same to another school district.
  - i) Except to the extent necessary to avoid dividing parcels within the Property held in identical ownership, at least fifty percent (50%) of which are within the three-mile limit, the proposed annexation will not extend the municipal boundary of the Town more than three (3) miles in any direction from any point of the current municipal boundary in any one year.
  - j) Prior to completion of the annexation of the territory proposed to be annexed, the Town will have in place a plan for that area, which generally describes the proposed: Location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the Town; and the proposed land uses for the area; such plan to be updated at least once annually.
  - k) In establishing the boundary of the territory proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the territory to be annexed.
  - l) The Town will not deny reasonable access to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed to the Town but is not bounded on both sides by the Town.
3. Petitioner comprises more than fifty percent (50%) of the landowners in the Property owning more than fifty percent (50%) of the Property, excluding public streets, alleys and any land owned by the annexing municipality, and the Petitioner hereby consents to the establishment of the boundaries of the Property as shown in the annexation maps submitted herewith. The legal description of the portion of the Property owned by the Petitioner is set forth in "Exhibit B," attached hereto and incorporated herein by reference.

4. Accompanying this Petition are four (4) copies of an annexation map (Annexation Map for Erie Gateway South Annexation No. 7) containing the following information:
  - a) A written legal description of the boundaries of the area proposed to be annexed;
  - b) A map showing the boundary or the area proposed to be annexed, said map prepared and containing the seal of a registered engineer;
  - c) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
  - d) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town and the contiguous boundary of any other municipality abutting the area proposed to be annexed, and a showing of the dimensions of such contiguous boundaries.
5. The affidavit of the circulator of this Petition certifying that the signature on this Petition is the signature of each person whose name it purports to be certifying the accuracy of the date of such signatures is attached hereto as "Exhibit C" and is incorporated herein by this reference.
6. The proposed annexation of the Property complies with § 30(1)(b) of Article II of the Colorado Constitution.
7. The Petitioner signed this Petition no more than one hundred eighty (180) days prior to the date of the filing of this Petition with the Town.
8. Upon the annexation ordinance becoming effective, the Property proposed to be annexed will become subject to all ordinances, rules and regulations of the Town, except for general property taxes of the Town which shall become effective as the January 1 next ensuing following the effectiveness of the annexation.
9. Petitioner has filed this Petition subject to the following conditions, and the consent of Petitioner to annexation of the Property to the Town is conditioned upon satisfaction of the following conditions, any one or more of which may be waived by OEO, LLC, a Colorado limited liability company ("Purchaser"), in its sole discretion:
  - a) Concurrently with its approval of annexation of the Property, the Town approves (i) zoning for the Property to the Low Density Residential zone district under the Town's Unified Development Code; (ii) annexation of that certain property set forth in that certain petition for annexation to the Town and accompanying annexation map for Erie Gateway South Annexation No. 7 (the "Additional Annexation Property"); and (iii) zoning for the Additional Annexation Property to the Low Density Residential zone district under the Town's Unified Development Code.

- b) Petitioner hereby reserves the sole, exclusive and unilateral right, for the benefit of, and to be exercised solely by, Purchaser, to withdraw this Petition by Purchaser so notifying the Clerk of the Town in writing at any point prior to the later to occur of: (i) the latest final, non-appealable approval of the final ordinance(s) or other final approval(s) approving (A) annexation of the Property and the Additional Annexation Property to the Town; and (B) zoning of the Property and the Additional Annexation Property as contemplated herein; or (ii) final, non-appealable approval of any "Legal Challenge." For purposes of this Petition, "Legal Challenge" means either (i) any third party commences any legal proceeding or other action that directly or indirectly challenges the annexation of the Property and/or any portion of the Additional Annexation Property, or any of the Town's ordinances, resolutions or other approvals approving any of the foregoing; or (ii) any third party submits a petition for a referendum seeking to reverse or nullify any of such ordinances.
- c) Prior to the expiration of the period described in the foregoing subparagraph b) without Petitioner having withdrawn this Petition, neither Petitioner nor the Town shall cause or permit the occurrence of the conditions to effectiveness of the annexation as set forth in Section 31-12-113(2)(b) of the Act.

- 10. Except for the terms and conditions of this Petition, which terms and conditions Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of Sections 31-12-107(4), -110(2), -111 or -112(1) of the Act, Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the Town.

WHEREFORE, the following Petitioner respectfully requests that the Town, acting through its Board of Trustees, approve the annexation of the Property pursuant to the provisions of the Act.

[Signature Page to Follow]



**EXHIBIT A**

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED

**ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE**

A PARCEL OF LAND LOCATED IN SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 3.25" ALUMINUM CAP, LS 13155 IN RANGE BOX

- NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 1.5" ALUMINUM CAP, LS 4846.

**COMMENCING** AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36;

THENCE N 89°45'33" E ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291 AND THE **POINT OF BEGINNING;**

THENCE N 89°45'33" E CONTINUING ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1292.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285;

THENCE S 89°49'19" E ALONG SAID SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285 A DISTANCE OF 1319.99 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE WESTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283;

THENCE S 00°20'01" E ALONG SAID WESTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283 A DISTANCE OF 65.00 FEET;

THENCE N 87°03'19" W A DISTANCE OF 573.88 FEET;

THENCE S 00°11'08" E A DISTANCE OF 1209.44 FEET;

THENCE S 89°36'44" W A DISTANCE OF 60.00 FEET;

THENCE N 00°11'08" W A DISTANCE OF 553.00 FEET;

THENCE S 89°36'44" W A DISTANCE OF 1681.33 FEET;

THENCE N 00°20'16" W A DISTANCE OF 4.50 FEET;

1401656.2

THENCE S 89°36'44" W A DISTANCE OF 297.00 FEET TO A POINT ON SAID EASTERLY LINE OF  
ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291;

THENCE N 00°18'39" W ALONG SAID EASTERLY LINE A DISTANCE OF 699.93 FEET TO THE **POINT  
OF BEGINNING;**

CONTAINING 1,490,168 SQ. FT. OR 34.2096 ACRES MORE OR LESS.

**EXHIBIT B**

**LEGAL DESCRIPTION OF LAND OWNED BY EACH PETITIONER**

**ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE LEGAL DESCRIPTION OF LAND OWNED BY MICHAEL THERO & PATTEE DONNA**

A PARCEL OF LAND LOCATED IN SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 3.25" ALUMINUM CAP, LS 13155 IN RANGE BOX

- NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 1.5" ALUMINUM CAP, LS 4846.

**COMMENCING** AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36;

THENCE N 89°45'33" E ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY LINE OF ERIE GATEWAY ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291 AND THE **POINT OF BEGINNING;**

THENCE S 00°18'39" E ALONG SAID EASTERLY LINE A DISTANCE OF 207.45 FEET TO THE **POINT OF BEGINNING;**

THENCE N 89°36'44" E A DISTANCE OF 718.32 FEET;

THENCE S 00°19'25" E A DISTANCE OF 496.98 FEET;

THENCE S 89°36'44" W A DISTANCE OF 421.42 FEET;

THENCE N 00°20'16" W A DISTANCE OF 4.50 FEET;

THENCE S 89°36'44" W A DISTANCE OF 297.00 FEET TO A POINT ON SAID EASTERLY LINE OF ERIE GATEWAY ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291;

THENCE N 00°18'39" W ALONG SAID EASTERLY LINE A DISTANCE OF 492.48 FEET TO THE **POINT OF BEGINNING;**

CONTAINING 355,679 SQ. FT. OR 8.1653 ACRES MORE OR LESS.

EXHIBIT C

Affidavit of Circulator

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Jefferson )

Matthew Caranough, being first duly sworn upon oath, deposes and says that he was the circulator of this Petition for Annexation of lands to the Town of Erie, Colorado, consisting of Nine (9) pages including this page and that each signature hereon was witnessed by your affiant and is the signature of the person whose name it purports to be.

CIRCULATOR

By: [Signature]  
Name: Matt Caranough

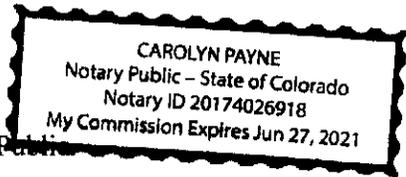
STATE OF COLORADO )  
 ) ss.  
COUNTY OF Jefferson )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of September, 2017 by [Signature].

My commission expires: 6/27/21

Witness My hand and official seal.

Notary Public



# ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE ANNEXATION MAP

LOCATED IN SECTION 36, TOWNSHIP 1 NORTH,  
RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN,  
COUNTY OF BOULDER, STATE OF COLORADO  
34.2096 ACRES  
AN-000917-2017

**SHEET 1 OF 2**

## LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 3.25" ALUMINUM CAP, LS 13155 IN RANGE BOX

-NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING A FOUND 1.5" ALUMINUM CAP, LS 4846.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36;

THENCE N 89°45'33" E ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291 AND THE POINT OF BEGINNING;

THENCE N 89°45'33" E CONTINUING ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1292.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285;

THENCE S 89°49'19" E ALONG SAID SOUTHERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 2, ORD. NO. 34-2016, RECEPTION NO. 03573285 A DISTANCE OF 1319.99 FEET TO A POINT ON THE WESTERLY LINE OF THE ERIE GATEWAY SOUTH ANNEXATION NO.1, ORD 33-2016, RECEPTION NO. 03573283;

THENCE S 00°20'01" E ALONG SAID WESTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 1, ORD. NO. 33-2016, RECEPTION NO. 03573283 A DISTANCE OF 65.00 FEET;

THENCE N 87°03'19" W A DISTANCE OF 573.88 FEET;

THENCE S 00°11'08" E A DISTANCE OF 1209.44 FEET;

THENCE S 89°36'44" W A DISTANCE OF 60.00 FEET;

THENCE N 00°11'08" W A DISTANCE OF 553.00 FEET;

THENCE S 89°36'44" W A DISTANCE OF 1681.33 FEET;

THENCE N 00°20'16" W A DISTANCE OF 4.50 FEET;

THENCE S 89°36'44" W A DISTANCE OF 297.00 FEET TO A POINT ON SAID EASTERLY LINE OF ERIE GATEWAY SOUTH ANNEXATION NO. 5, ORD. NO. 37-2016, RECEPTION NO. 03573291;

THENCE N 00°18'39" W ALONG SAID EASTERLY LINE A DISTANCE OF 699.93 FEET TO THE POINT OF BEGINNING;

CONTAINING 1,490,168 SQ. FT. OR 34.2096 ACRES MORE OR LESS.

## CONTIGUITY STATEMENT:

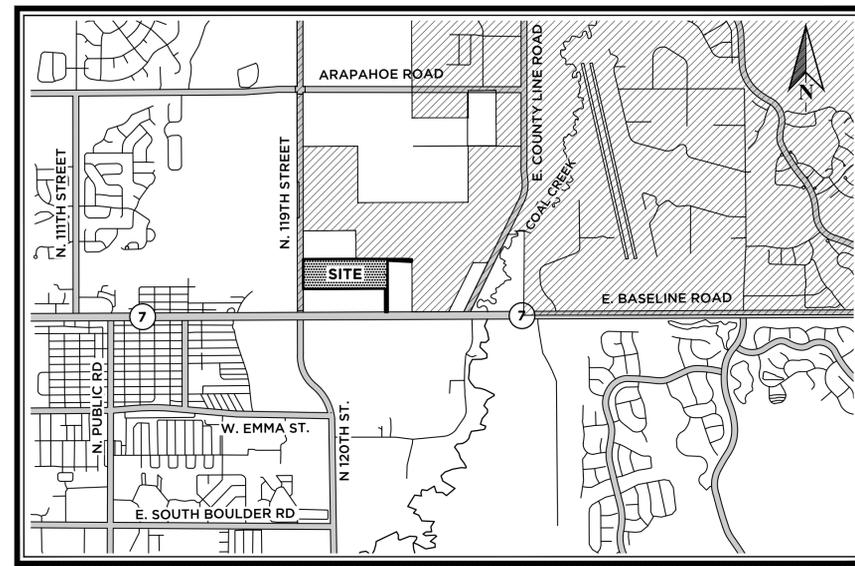
THE ABOVE DESCRIBED LAND IS CONTIGUOUS TO THE TOWN OF ERIE AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 1973, 31-12-104-(1) (a) THAT ONE-SIXTH OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION = 7,756.82'

ONE-SIXTH OF THE TOTAL PERIMETER OF AREA = 1292.80'

PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING TOWN LIMITS = 2,084.92'

THE TOTAL CONTIGUOUS PERIMETER IS 26.88% WHICH EXCEEDS THE 1/6 (16.67%) AREA REQUIRED.



## VICINITY MAP

1" = 2000'

## GENERAL NOTES:

THE LINEAL UNITS USED ON THIS MAP ARE U.S. SURVEY FEET. ALL BEARINGS SHOWN HEREON ARE IN DEGREES-MINUTES-SECONDS.

ACCORDING TO COLORADO LAW, YOU MUST COMMERCE AY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36 BEING N 89°45'33" E.

THIS MAP IS NOT A MONUMENTED LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO SHOW THE AREA TO BE ANNEXED INTO THE TOWN OF ERIE AND WAS CREATED WITHOUT THE BENEFIT OF A TITLE POLICY.

## SURVEYOR'S CERTIFICATE:

I, CHRISTOPHER H. McELVAIN, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS ANNEXATION MAP SHOWN HEREON TRULY AND CORRECTLY REPRESENTS THE ABOVE DESCRIBED PARCEL(S) OF LAND AND THAT AT LEAST ONE SIXTH (1/6) OF THE PERIPHERAL BOUNDARY OF SAID PARCEL(S) IS CONTIGUOUS TO THE PRESENT BOUNDARY OF THE TOWN OF ERIE.

I ATTEST THE ABOVE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

CHRISTOPHER H. McELVAIN  
COLORADO P.L.S. 36561  
FOR ON ON BEHALF OF KT ENGINEERING, LLC.

## BOARD OF TRUSTEES APPROVAL CERTIFICATE:

THIS ANNEXATION MAP IS TO BE KNOWN AS THE "ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE" AND IS APPROVED AND ACCEPTED BY ORDINANCE NO. \_\_\_\_\_ PASSED AND ADOPTED AT THE REGULAR (SPECIAL) MEETING OF THE BOARD OF TRUSTEES OF ERIE, COLORADO, HELD ON \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

ATTEST \_\_\_\_\_  
TOWN CLERK

## CLERK & RECORDER CERTIFICATE:

STATE OF COLORADO )  
  )SS.  
COUNTY OF \_\_\_\_\_)

I HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS FILED IN MY OFFICE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D AND WAS RECORDED AT RECEPTION NUMBER \_\_\_\_\_.

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
COUNTY CLERK AND RECORDER



DATE: 08/29/2017

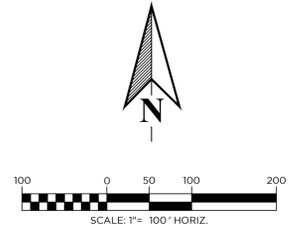
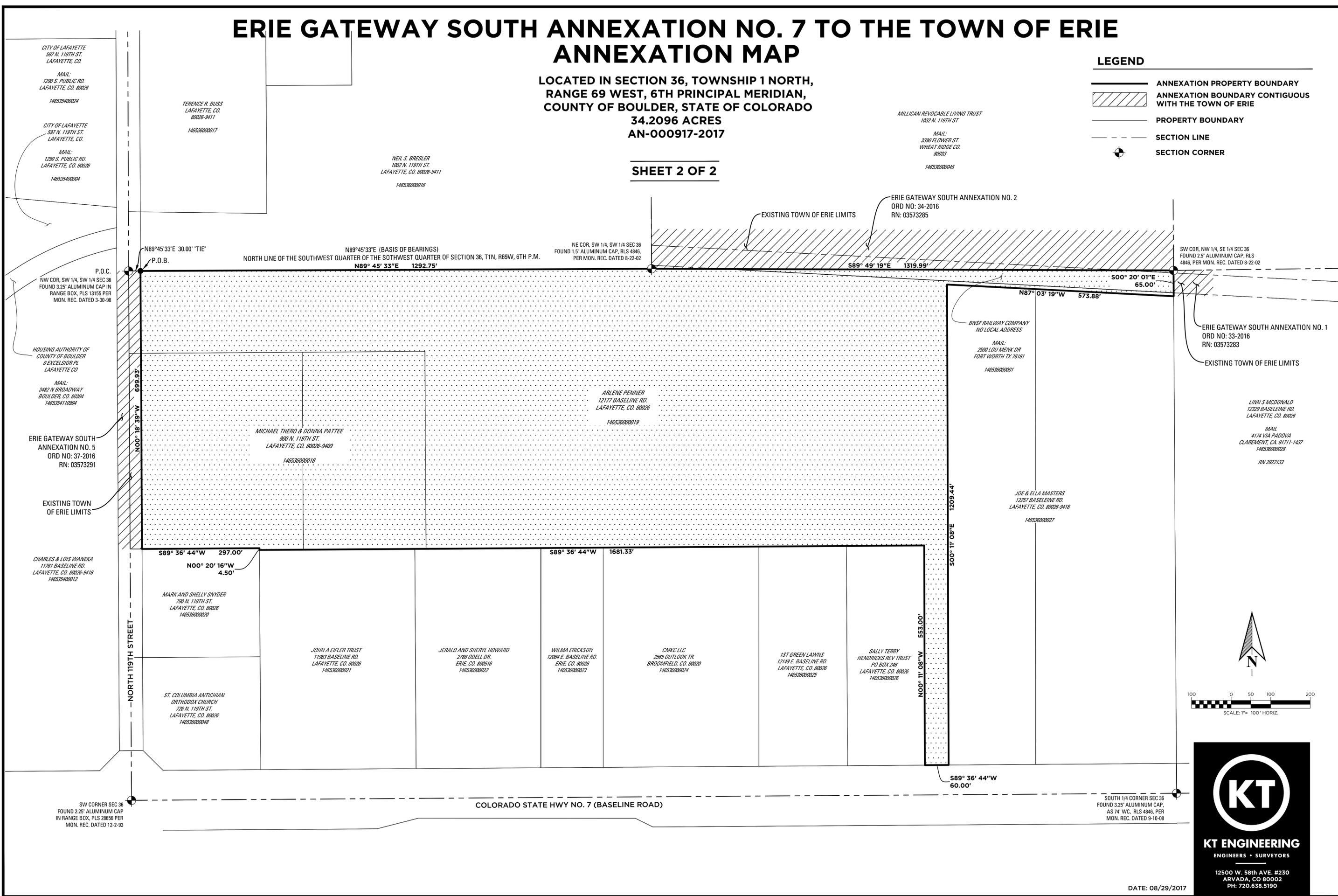
# ERIE GATEWAY SOUTH ANNEXATION NO. 7 TO THE TOWN OF ERIE ANNEXATION MAP

LOCATED IN SECTION 36, TOWNSHIP 1 NORTH,  
RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN,  
COUNTY OF BOULDER, STATE OF COLORADO  
**34.2096 ACRES**  
**AN-000917-2017**

**SHEET 2 OF 2**

## LEGEND

-  ANNEXATION PROPERTY BOUNDARY
-  ANNEXATION BOUNDARY CONTIGUOUS WITH THE TOWN OF ERIE
-  PROPERTY BOUNDARY
-  SECTION LINE
-  SECTION CORNER




**KT ENGINEERING**  
ENGINEERS • SURVEYORS  
12500 W. 58th AVE. #230  
ARVADA, CO 80002  
PH: 720.638.5190

DATE: 08/29/2017