

PURCHASE AND SALE AGREEMENT
(Vacant Land)

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of the ____ day of October, 2018, by and between **ERIE VENTURES LLC, an Oregon limited liability company,** and **COLSON & COLSON CONSTRUCTION CO., an Oregon general partnership,** having an address of 3950 Fairview Industrial Drive SE, Suite 240, Salem, OR 97302-1166, (collectively, "Seller"), and the **TOWN OF ERIE,** a Colorado municipal corporation, having an address at 645 Holbrook Street, P.O. Box 750, Erie, Colorado, 80516 ("Purchaser").

RECITALS

A. Seller is the fee owner of certain parcels of real property located in the County of Weld, State of Colorado consisting of approximately Two Hundred Fifty-five (255) acres, and which is more particularly described on Exhibit A attached hereto and made a part hereof.

B. As used in this Agreement, the term "Property" includes all of the following: (1) the real property described on Exhibit A together with all reversions, remainders, easements, rights-of-way, appurtenances, agreements, licenses, tenements and hereditaments appertaining to or otherwise benefiting or used in connection with said real property or the Improvements (as defined below), together with all of Seller's right, title and interest in and to any strips of land, streets and alleys abutting or adjoining such real property, and together with any and all minerals and mineral rights, water and water rights (whether decreed or undeclared, tributary, nontributary or not nontributary, surface or underground, appropriated or unappropriated, permitted or unpermitted), wells, well rights and well permits, water and sewer taps and any water service agreements which shall be assigned to Purchaser or sanitary or storm sewer capacity appurtenant or appertaining to or otherwise benefiting or used in connection with the real property (the "Land"); (2) the existing buildings and other improvements, structures, open parking facilities and fixtures placed, constructed, installed or located on the Land, if any, and all plants, trees, sculptures and other appurtenances located upon, over or under the Land, including, but not limited to the mine structure (collectively, the "Improvements;" the Land and Improvements are sometimes hereinafter collectively referred to as the "Real Property"); (3) all right, title and interest of Seller as landlord, under all leases, tenancies or occupancy arrangements affecting any portion of the Real Property (the "Tenant Leases"), all prepaid rents under the Tenant Leases applicable to the period from and after the Closing (as defined below), and security and other deposits under the Tenant Leases; (4) all right, title and interest of Seller in and to all contracts, agreements or commitments, oral or written, other than the Tenant Leases, relating to the Real Property, if any (the "Contracts"), to the extent that they are assignable; (5) all right, title and interest of Seller in and to all unexpired warranties, guaranties and bonds, including, without limitation, contractors' and manufacturers' warranties or guaranties, relating to the Real Property to the extent that they are assignable, if any (the "Warranties"); (6) all right, title and interest of Seller in and to all governmental or quasi-governmental permits, agreements, licenses, certificates and authorizations, including, without limitation, certificates of occupancy, relating to the construction, use or operation of the Real Property to the extent that they are assignable, if any (the "Permits"); (7) all right, title and interest of Seller in and to all surveys, soil and substratus studies, architectural drawings and environmental studies or reports if existing and in Seller's possession or control that relate to the Real Property (the "Plans"); and (8) any and all other rights, privileges, and appurtenances owned by Seller and in any way related to, or used in connection with the operation of the Real Property to the extent that they are assignable (the "Intangible Property").

C. Seller now desires to sell and Purchaser now desires to purchase all of Seller's right, title and interest in and to the Property, upon the terms and covenants and subject to the conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

ARTICLE I
Purchase and Sale of the Property

1.1 Purchase. For the consideration hereinafter set forth, but subject to the terms, provisions, covenants and conditions contained herein, Seller hereby agrees to sell, assign and convey to Purchaser, and Purchaser agrees to purchase from Seller, all of the Property.

1.2 Purchase Price. The total purchase price (the "Purchase Price") for the Property shall be Six Million, Three Hundred Seventy-Five Thousand and No/100s Dollars (\$6,375,000.00) based upon the sale of approximately Two Hundred Fifty-Five (255) acres, said Purchase Price to be adjusted as set forth herein, below. The Purchase Price shall be payable as follows:

(a) Deposit. Within three Business Days (as hereinafter defined) after the Effective Date (as hereinafter defined in Section 12.3), Purchaser will deliver an earnest money deposit in the amount of Fifty Thousand Dollars (\$50,000.00) to Stewart Title Company, 3100 Arapahoe Avenue, Suite 303, Boulder, Colorado 80303 (the "Title Company"). The Title Company will hold such Fifty Thousand Dollars (\$50,000.00) as an earnest money deposit hereunder pursuant to the terms and provisions hereof (the "Deposit"). The Title Company will deposit such cash amount in an interest-bearing, insured account and continue hold such money as the Deposit hereunder pursuant to the terms and provisions hereof. The Deposit shall earn interest which shall be credited to the Purchaser and the full amount shall be applied to the Purchase Price at Closing. The Deposit shall be fully refundable to the Purchaser during the Inspection Period and after such shall constitute liquidated damages in the event of Purchaser's default.

(b) Balance. The balance of the Purchase Price, subject to prorations and adjustments provided herein below, will be paid in good funds in compliance with laws on the Closing Date (as hereinafter defined in Article VIII), in such manner, place and account as Seller may, by prior notice, instruct.

(c) Adjustment of Purchase Price. The Purchase Price shall be adjusted in accordance with the results of the Survey (as hereinafter defined in Section 2.4) in the following manner: the Purchase Price shall equal Twenty-Five Thousand and No/100s Dollars (\$25,000.00) for each acre or pro-rata portion thereof, that is to be purchased by Purchaser as described on Exhibit A. If as a result of the Survey the Purchase Price would be adjusted downward in accordance with this paragraph by more than four percent (4%), the Seller shall have the option of terminating this Agreement by notice to Purchaser delivered within seven (7) days after delivery of the Survey to the Seller.

ARTICLE II
Seller's Deliveries

It is understood by the parties that Purchaser will be relying in part on Seller's Deliveries (as defined herein) in order to conduct Purchaser's inspection and due diligence investigation of the Property. Except as otherwise provided below, Seller will, within Ten (10) days after the Effective Date (as defined below), at Seller's expense, deliver, or cause to be delivered to Purchaser, the following (collectively, the "Seller's Deliveries"):

2.1 Title Insurance Commitment. A current title insurance commitment issued by the Title Company, including the best available copies of all recorded exceptions to title referred to therein (collectively, the "Title Commitment"), showing marketable title to the Real Property to be vested in Seller and committing to insure such title to the Real Property in Purchaser by the issuance of a 2006 or 2016 ALTA form of extended coverage policy of owner's title insurance, with the standard printed exceptions to be deleted, in the amount of the Purchase Price, subject to the satisfaction of the requirements of the instruments to be delivered at the Closing as contemplated hereby and any affidavits and agreements of Purchaser and Seller which the Title Company requires in connection with deletion of the standard printed exceptions. Purchaser will review the Title Commitment as part of its investigation of the Property during the Inspection Period. Purchaser will have the right to negotiate with Title Company in order to cause Title Company to modify the Title Commitment to reflect only those exceptions to title that are acceptable to Purchaser. Seller hereby agrees to cooperate with any of Purchaser's negotiations with the Title Company. If Purchaser does not terminate this Agreement pursuant to Section 3.2 hereof, then the exceptions to title disclosed in the Title Commitment, excluding (a) any delinquent taxes or assessments, (b) any monetary liens or encumbrances

which are not a result of the action of Purchaser, its representatives, agents or contractors, and (c) any standard printed exceptions, will be the "Permitted Exceptions" hereunder.

2.2 Environmental Studies. Without in any way limiting any other duties of Seller hereunder to provide information to Purchaser, copies of all environmental studies, reports and information in Seller's possession or control, including, without limitation, correspondence from any governmental or quasi-governmental authorities having jurisdiction over the Property (a "Governmental Authority"), concerning the environmental condition of the Property (all of the foregoing being hereinafter referred to as "Seller's Environmental Information"). In addition, without in any way limiting the preceding sentence, Seller shall provide Purchaser with a copy of any Phase I Environmental Site Assessment Report for the Property and any Phase II Environmental Site Assessment Report for the Property in Seller's possession (collectively, the "Environmental Reports") within Ten (10) days of the Effective Date.

2.3 Phase I Environmental Site Assessment Report. Purchaser may obtain a current Phase I Environmental Site Assessment Report for the Property and, in the event an environmental hazard or a potential contamination of any sort, in the sole discretion of Purchaser, has been identified on the Property, a current Phase II Environmental Site Assessment Report for the Property (collectively, the "Purchaser's Environmental Reports"). Purchaser shall pay all costs associated with the Purchaser's Environmental Reports.

2.4 Survey. Seller shall provide to Purchaser a copy of any/all survey(s) of the Property the Seller currently possesses within Ten (10) days of the Effective Date. Purchaser shall obtain a current pinned ALTA survey of Property ("Survey"). Purchaser shall pay all costs associated with any Survey obtained by the Purchaser.

2.5 Other Information. True, accurate and complete copies of all documents in any way related to the prior development, usage, operation or marketability of the Property which are in the possession or control of Seller, including, without limitation, information related to utilities to the Property and adverse conditions. Such documents shall include, without limitation, surveys, all environmental, soils and engineering tests, appraisals, reports, contracts, and other studies ordered or performed at the direction of Seller.

2.6 Disclosure. A written disclosure from Seller to Purchaser of all easements, liens or other title matters not shown by public records of which Seller has current actual knowledge.

2.7 Leases. Copies of all leases currently in effect on the Property.

2.8 Conditions Relating to Documents Provided. Subject to the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, and other applicable law, Purchaser agrees to utilize and disseminate the documents referenced in this Article II (the "Documents") solely for purposes of performing its due diligence under this Agreement, shall not distribute the information to anyone other than Purchaser's employees, agents, and consultants involved in reviewing the Documents, and shall otherwise keep the Documents confidential, excluding those Documents which are of public record, until Closing other than as required by law or court order. Purchaser agrees that Seller makes no representation or warranty relating to any accuracy of the information contained in the Documents other than as expressly provided herein, and Purchaser shall assume the risk as to any errors or omissions contained in such information and materials and shall not be entitled to rely on the same without the express consent of the persons or entities preparing the reports. Notwithstanding the foregoing, Seller represents that the copies of the Documents to be delivered to Purchaser by Seller will be true and complete copies of the Documents in Seller's possession, and that Seller has no actual knowledge that any of the information contained in the Documents is untrue or misleading.

ARTICLE III **Investigation of the Property**

3.1 Inspection of Property. Purchaser will have until 5:00 p.m., Mountain Time, on November 30, 2018, (as it may be extended, as set forth below, the "Inspection Period"), to investigate and evaluate the Property, the zoning and other governmental limitations applicable to the Property, Seller's Deliveries and all other documents and/or information provided to Purchaser pursuant to Article II, and any other aspects or characteristics of the Property

which may affect its acquisition, ownership, development, usage, operation, marketability or economic viability. Such right of investigation will include, without limitation, the right to enter the Property and have made, at Purchaser's expense, any studies, inspections or plans of the Property as Purchaser may deem necessary or appropriate, including environmental studies and/or flood plain studies. Seller agrees to cooperate reasonably with any such investigations, inspections or studies made by or at Purchaser's direction so long as such cooperation is at no expense to Seller. Seller agrees that, during the Inspection Period, Purchaser will have access at all reasonable times upon reasonable prior notice to Seller's books and records concerning the Property, and will be permitted to make copies of such books and records at Purchaser's expense. Notwithstanding anything contained in this Agreement to the contrary, the Inspection Period shall be extended by three (3) days for each and every day that Seller fails to deliver to Purchaser the Seller's Deliveries as and when required by Article II, provided however, that in no event shall the Inspection Period be extended beyond December 9, 2018 without Seller's written agreement.

3.2 Termination. If on or before the expiration of the Inspection Period, Purchaser gives Seller written notice setting forth Purchaser's dissatisfaction with the Property or any characteristic thereof, in Purchaser's sole discretion, for any reason whatsoever, then this Agreement shall terminate, the Deposit shall be returned to Purchaser and both parties shall be relieved from any further liability hereunder, except for any liabilities and obligations which by their terms survive any termination of this Agreement. If Purchaser does not terminate this Agreement as described in the preceding sentence, then this Agreement shall remain in full force and effect in accordance with its terms, and the Deposit shall become non-refundable, except in the event of default hereunder by Seller.

3.3 Ongoing Access to Property. During the Purchaser's process of surveying, carrying on environmental investigation and testing, geo-technical examination, or design activities, Purchaser and Purchaser's consultants shall have the right to enter the Property as Purchaser and Purchaser's consultants may deem necessary or appropriate.

3.4 Conditions of Inspection. Purchaser agrees to reasonably cooperate with Seller to minimize any disruptions caused by the inspection authorized in this Article III. Purchaser agrees that all of its testing, inspection or other activities on the Property during the Inspection Period will be conducted in accordance with all applicable governmental laws and regulations, and at its sole cost, risk and expense, and agrees that such inspections and tests will not unreasonably interfere with the use by Seller or its tenants, if any, relating to the Property, and agrees to restore the Property to substantially the same condition as existed immediately prior to the making of such tests, inspections and other activities.

3.5 Oil and Gas Leaseholds. Seller and Purchaser acknowledge that the Property is subject to oil and gas leases, the oil and gas lessees thereunder have and are undertaking oil and gas exploration, drilling and production activities on the Property, and oil and gas wells and associated production facilities, including tank batteries, separators, pipelines and access roads exist on the Property ("Oil and Gas Facilities"). The Oil and Gas Facilities are the property of third parties, and nothing herein grants Purchaser, its employees or contractors the right to enter on or into, or to inspect such Facilities.

ARTICLE IV **Maintenance of Property**

Seller shall: (i) maintain the Property in at least as good a condition and state of repair as upon the Effective Date, ordinary wear and tear excepted, and pay all associated costs and expenses for such maintenance performed on or before the Closing Date; (ii) maintain its current (or equivalent) fire and casualty insurance in effect, without reduction in coverage; (iii) not dispose of, mortgage, pledge or subject to lien, license or other encumbrance any interest in the Property; (iv) not knowingly commit or omit any act that constitutes a breach of any lease or, upon the expiration of any applicable grace period, will constitute a breach under a lease; (v) operate the Property in accordance with the ordinary course of business of the Seller, except in cases of emergency or casualty; (vi) shall collect all rents as they become due and enforce all requirements of Leases; and (vii) shall not modify, amend or change the Property in any manner whatsoever without the prior written approval of Purchaser.

ARTICLE V

Title

At Closing hereunder, Seller will convey to Purchaser by General Warranty Deed good, marketable and insurable fee simple title to the Property, free and clear of all liens and encumbrances and subject only to the Permitted Exceptions. Seller will not, after the date hereof, sell, convey, option or contract to do any of the foregoing or otherwise convey, abandon, relinquish, cloud or encumber title to the Property or any part thereof or contract to do any of the foregoing in a manner which would survive Closing except as may be expressly provided for herein. At Closing, Seller will cause the Title Company to issue to Purchaser, or unconditionally commit to issue to Purchaser after Closing, a 2006 or 2016 ALTA form of extended coverage owner's policy of title insurance insuring marketable, insurable title to the Property in Purchaser in the amount of the Purchase Price for such Property, subject only to the Permitted Exceptions (the "Title Policy"). At Closing, Seller will pay for the title insurance policy insuring the Purchaser's purchase. If any update of the Title Commitment issued after expiration of the Inspection Period shall show any exceptions which are not Permitted Exceptions or shall contain any additional requirements, which exceptions or additional requirements are caused by Seller (or anyone acting by, through or under Seller or its affiliates) without Purchaser's prior written consent (which may be withheld in Purchaser's sole discretion), Seller will, at its sole cost and expense, within the earlier of Thirty (30) days or the Closing Date, cure such exceptions and satisfy such requirements. Seller's obligation to cure such exceptions will, if such method is acceptable to Purchaser as to any specific exception, include the obligation to obtain title insurance protection for Purchaser against such exception and to pay additional premiums or costs which the Title Company charges for such protection. If each of such exceptions has not been cured by Seller or waived by Purchaser within the earlier of Thirty (30) days or the Closing Date, and Purchaser does not elect to waive such exception or requirements, Purchaser will be entitled to all rights and remedies therefor, including, without limitation, specific performance with abatement and/or damages on account of the existence of any such exceptions which are not Permitted Exceptions or for any requirements which are not satisfied by Seller, or termination of this Agreement and the return of the Deposit. If a third party (not related to Seller or anyone acting by, through or under Seller or its affiliates) causes such new title exception or additional requirements, Seller will, at its sole cost and expense, within the earlier of Thirty (30) days or the Closing Date, cure such exceptions and satisfy such requirements; provided, however, that if Seller is unable cure such exceptions and satisfy such requirements using all reasonable efforts and at a cost and expense deemed acceptable to Seller in its sole discretion, Purchaser's only right will be to either waive its objection thereto or to terminate this Agreement. In the event of any such termination, the Deposit will be returned to Purchaser and the parties will thereupon be relieved of all further liabilities and obligations hereunder, except for any liabilities and obligations which by their terms survive any termination of this Agreement.

ARTICLE VI

Representations and Warranties

6.1 Seller's Representations and Warranties. To Seller's current actual knowledge, without inquiry and without duty to inquire, Seller represents, warrants and covenants to Purchaser that the following are true and correct:

(a) No Possessory Rights; No Third Party Interests. Except for any parties in possession pursuant to, and any rights of possession granted under, the Permitted Exceptions, there are no parties in possession of any part of the Property, and there are no other rights of possession which have been granted to any third party or parties. Seller has not granted to any party any option, contract or other agreement with respect to a purchase or sale of the Property or any portion thereof or any interest therein.

(b) No Liens. There are no mechanics' or materialmen's liens of record against the Property, nor are there any unsatisfied charges, debts, liabilities, claims or obligations arising from the construction, ownership, maintenance or operation of or otherwise relating to the Property, which could give rise to any mechanics' or materialmen's or constitutional, statutory or common law lien against the Property, or any part thereof.

(c) Contracts and Tenant Leases. Seller is not in default of any of its obligations under the Permitted Exceptions, the Contracts or the Tenant Leases. Seller represents that there are no Contracts or Tenant Leases other than those set forth on the list of Contracts and Tenant Leases delivered by Seller to Purchaser hereunder.

(d) Compliance with Law. Except as otherwise disclosed to Purchaser as part of Seller's Deliveries, Seller has not received notice of any violation of any applicable statutes, ordinances, codes (including, but not limited to, zoning, building, subdivision, pollution, environmental protection, water disposal, health, fire and safety, and engineering codes), and the rules and regulations of, any Governmental Authority. With respect to the Property, there are no violations of any applicable statutes, ordinances, codes (including, but not limited to, zoning, building, subdivision, pollution, environmental protection, water disposal, health, fire and safety, and engineering codes), and the rules and regulations of, any Governmental Authority.

(e) No Actions. There are no actions, suits, proceedings or claims pending, or to Seller's knowledge, contemplated or threatened, with respect to or in any manner affecting the Property or the ability of the Seller to consummate the transaction contemplated by this Agreement. There are no pending condemnation or similar proceedings or special assessments affecting the Property, or any part thereof, and to the best of Seller's knowledge, no such proceeding or assessment is contemplated or threatened by any Governmental Authority. No filing or petition under the United States Bankruptcy Law or any insolvency laws, or any laws for composition of indebtedness or for the reorganization of debtors has been filed with regard to Seller.

(f) Assumption of Obligations. Purchaser, by virtue of the purchase of the Property will not be required to satisfy any obligation of Seller other than those expressly assumed by Purchaser pursuant to this Agreement, any obligations imposed under the Permitted Exceptions or any obligations which may be incurred under any expressly assumed Permits or Contracts.

(g) Hazardous Material. To Seller's knowledge, except as disclosed in any environmental or engineering reports or studies delivered by Seller to Purchaser as part of the Seller's Environmental Information, and except as associated with oil and gas exploration, drilling and production operations which have been or are being conducted by third party lessees on the Property: (i) the Property has not at any time been used for the purpose of storing, manufacturing, releasing or dumping Hazardous Materials (as hereinafter defined), and there are no Hazardous Materials located at, on or under the Property, except for normal quantities of Hazardous Materials utilized in connection with the maintenance and operation of the Property in compliance with all Environmental Laws (as hereinafter defined), and (ii) no underground storage tanks, pipelines or clarifiers have been or are located on the Property. As used in this Agreement, "Hazardous Materials" shall mean any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Law, including, without limitation, asbestos, gasoline and any other petroleum products, polychlorinated biphenyls and urea formaldehyde insulation. As used in this Agreement, "Environmental Law" shall mean any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any Governmental Authority or requirements of law (including common law) relating to or imposing liability or standards of conduct concerning the protection of human health, the environment or natural resources, or the release or threatened release of Hazardous Materials into the environment. With respect to the representations and warranties set forth in this subparagraph (g), (1) Seller shall not be liable for any breach or violation thereof unless Purchaser notifies Seller in writing of such breach or violation on or before one year after the Closing; and (2) no suit based on such representations and warranties shall be filed or otherwise commenced later than one year after the Closing.

(h) Seller's Deliveries. The copies of any documents furnished to Purchaser pursuant to this Agreement are true, accurate and complete copies of the documents they purport to be. Seller has no knowledge of any misrepresentations or any material inaccuracy in any of Seller's Deliveries that have been provided to Purchaser pursuant to this Agreement.

(i) Authority. Seller has the full right and authority to enter into this Agreement and consummate the transaction contemplated by this Agreement. Seller has taken all requisite action in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. Each of the persons signing this Agreement on behalf of Seller is authorized to do so. Seller will furnish to Purchaser any and all documents to evidence such authority as Purchaser shall reasonably request. The execution and delivery of the Agreement will require no further action or approval in order for the Agreement to constitute binding and enforceable obligations of Seller.

(j) Consents; Binding Obligations. No third party approval or consent is required to enter into this Agreement or to consummate the transaction contemplated hereby. This Agreement and all documents

required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms.

(k) No Representations; "As Is" Purchase. Except as expressly set forth herein or called for herein or any conveyance documents delivered at Closing, SELLER MAKES NO WARRANTIES OR REPRESENTATIONS of any kind or character, express or implied, with respect to the Property, its physical condition, income to be derived therefrom or expenses to be incurred with respect thereto, or with respect to information or documents previously furnished to Purchaser or furnished to Purchaser pursuant to this Agreement, or with respect to Seller's obligations or any other matter or thing relating to or affecting the same, and there are no oral agreements, warranties or representations collateral to or affecting the Property except as may otherwise be expressly set forth herein. Notwithstanding anything contained herein to the contrary, this Section shall survive the Closing or any termination of this Agreement.

(l) Materiality. Each of the representations and warranties contained in this Article are acknowledged by Seller to be material and to be relied upon by Purchaser in proceeding with this transaction, shall be deemed to have been remade by Seller as of the date of Closing, shall not be deemed merged into any instrument of conveyance delivered at Closing and shall survive the Closing.

(m) Seller is not a "foreign person" but is a "United States person" as such terms are defined in Sections 1445 and 7701 of the United States Internal Revenue Code.

(n) Seller is not, and will not be, a person or entity with whom Purchaser is restricted from doing business under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56 (commonly known as the "USA Patriot Act") and Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 and regulations promulgated pursuant thereto, including persons and entities named on the Office of Foreign Asset Control Specially Designated Nationals and Blocked Persons List (collectively, "Anti-Terrorism Laws").

6.2 Purchaser's Representations and Warranties. Purchaser represents, warrants and covenants to Seller that the following are true and correct:

(a) Authority. Purchaser has the full right and authority to enter into this Agreement and consummate the transaction contemplated by this Agreement. Purchaser has taken all requisite action in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. Each of the persons signing this Agreement on behalf of Purchaser is authorized to do so. Purchaser will furnish to Seller any and all documents to evidence such authority as Seller shall reasonably request.

(b) Consents; Binding Obligations. No third party approval or consent is required to enter into this Agreement or to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by Purchaser are and shall be valid, legally binding obligations of and enforceable against Purchaser in accordance with their terms.

ARTICLE VII

Purchaser's and Seller's Undertakings Pending Closing

7.1 Seller agrees to terminate by written notice to the other party thereto, effective as of Closing, any of the Contracts that Purchaser, pursuant to written notice to Seller, requests Seller to terminate. Seller agrees to terminate by written notice to the other party thereto, effective as of Closing, all Tenant Leases to be effective as of the Closing Date. Seller shall deliver copies of all notices of termination given by Seller hereunder to Purchaser.

ARTICLE VIII

Purchaser's Obligation to Close

Purchaser shall not be obligated to close hereunder unless each of the following conditions shall exist on the date of Closing (the "Closing Date"): (1) the Title Company shall be prepared to issue (or shall

unconditionally commit to issue) the Title Policy as described in Article V; (2) the representations and warranties made by Seller in Article VI shall be true and correct on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, and Seller will so certify; (3) Seller will have, in all material respects, (a) performed all covenants and obligations, and (b) complied with all conditions required by this Agreement to be performed or complied with by Seller on or before the Closing Date or each such covenant, obligation and condition shall be waived by Purchaser in writing prior to the Closing; and (4) no part of the Property shall be about to be acquired, or shall previously have been acquired, by authority of any governmental agency in the exercise of its power of eminent domain or by private purchase in lieu thereof. If any condition specified in this Article VIII is not satisfied on or before the Closing Date, Purchaser may, at its option, (a) extend the date for Closing to allow Seller a sufficient time (but not to extend beyond December 28, 2018) within which to cure or satisfy such condition, and Seller will immediately commence prosecution of such cure or satisfaction and diligently pursue the same to completion, at which time a new Closing Date shall be scheduled within Ten (10) days from Purchaser's acceptance of such cure or satisfaction, but not later than December 28, 2018. (b) waive such condition either at the time originally established for Closing or at any time thereafter and proceed to Closing, (c) terminate this Agreement by written notice thereof to Seller, in which case the Deposit shall be returned to Purchaser, or (d) if the failure of the condition is due to a breach by Seller hereunder, pursue any of its remedies under Section 11.1 hereof. Notwithstanding the foregoing, if eminent domain proceedings are commenced against any portion of the Property, Seller shall immediately give notice thereof to Purchaser, and Purchaser at its option may either (i) exercise any of the remedies available to Purchaser in this Article VIII, or (ii) proceed to Closing and receive at Closing either a credit against the Purchase Price in the amount of the award, in the case of a completed eminent domain proceeding, or an assignment of all rights in eminent domain, in the case of a pending eminent domain proceeding. Prior to Closing, Seller shall not designate counsel, appear in, or otherwise act with respect to any eminent domain proceedings, or commence any repair or restoration resulting therefrom, without the consent of Purchaser.

ARTICLE IX **Seller's Obligation to Close**

Seller shall not be obligated to close hereunder unless Purchaser (1) has delivered to the Title Company the Purchase Price as described in Article I hereof; (2) paid Purchaser's portion of the closing costs; (3) executed and delivered all other documents contemplated under this Agreement; and (4) delivered such executed and acknowledged (where appropriate) affidavits, certificates, closing statements and other documents required by the Title Company or necessary to consummate the transactions contemplated herein. Seller shall not be obligated to close hereunder unless the Closing occurs on or before December 28, 2018.

ARTICLE X **Closing**

10.1 Time of Closing. The closing ("Closing") shall take place in the offices of the Title Company at the time specified by Purchaser in written notice to Seller. The Closing Date shall be December 21, 2018, after expiration of the Inspection Period (as it may be extended as expressly provided herein) or such earlier date as may be mutually acceptable to the parties. If Closing does not occur, the Deposit shall be returned to Purchaser, paid to Seller or otherwise dealt with, all as provided elsewhere in this Agreement.

10.2 Deliveries. At Closing the following shall occur:

- (a) Seller will deliver to Purchaser a duly executed and acknowledged General Warranty Deed, in form satisfactory to Purchaser, conveying good and marketable fee simple title to the Property to Purchaser, free of all liens and encumbrances and subject only to the Permitted Exceptions.
- (b) Purchaser will pay to Seller the Purchase Price as provided in Article I hereof, subject to the adjustments described herein.
- (c) Possession of the Property will be delivered to Purchaser and Seller shall deliver to Purchaser all keys to all locks on such Property, if any, within Seller's possession or control.

(d) Seller will execute and deliver to Purchaser and the Title Company an affidavit that evidences that Seller is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

(e) Seller will execute and deliver to Purchaser an assignment, in form and substance satisfactory to Purchaser, of all of Seller's right, title and interest in and to the Contracts and Tenant Leases, if any are approved by Purchaser, and will deliver to Purchaser, the originals of all of the Contracts and Tenant Leases, if any, including all amendments and modifications thereto.

(f) Seller will execute and deliver to Purchaser a bill of sale and assignment, in form satisfactory to Purchaser, of all of Seller's right, title and interest in and to the Warranties, Permits and Intangible Property, to the extent the same are assignable and will deliver to Purchaser the originals of any Warranties or Permits in Seller's possession or control.

(g) Seller will execute and deliver to Purchaser a bill of sale, deed and assignment, in form satisfactory to Purchaser, of all of Seller's right, title and interest in and to the water rights, if any.

(h) Public utility services shall be transferred or terminated as of the date of the Closing. The provisions of this Section shall survive Closing.

(i) Seller and Purchaser will each execute and deliver to the Title Company such agreements or statements concerning claims for mechanic's liens and any other documents as may be required by the Title Company in order to issue the applicable Title Policy.

(j) Immediately after the Closing, the originals of all Plans in Seller's possession or control and all other materials of whatever kind owned by Seller relating to the design, construction, development, ownership, maintenance and operation of the Property, if any, will be delivered to and become the property of Purchaser.

(k) Seller will, whenever and as often as it shall be reasonably requested to do so by Purchaser, and Purchaser will, whenever and as often as it shall be reasonably requested to do so by Seller, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all conveyances, assignments and all other instruments and documents as may be reasonably necessary in order to complete the transaction herein provided and to carry out the intent and purposes of this Agreement.

(l) Seller will execute and deliver to Purchaser a bill of sale, in form satisfactory to Purchaser, of all of Seller's right, title and interest in and to any mobile/manufactured home on the Property.

Prorations and Closing Expenses

10.3 **Closing Adjustments.** The cash due at Closing pursuant to Article I hereof shall be subject to adjustment as of the Closing Date in accordance with the following provisions:

(a) **Taxes.** Real and personal property taxes on the Property shall be prorated to the Closing Date based on the most recent assessed valuations and mill levy available, which proration shall be deemed a final settlement between the parties.

(b) **Liens and Encumbrances.** The amount of any lien, deed of trust or other monetary encumbrance (including all prepayment penalties) then affecting the Property other than as a result of the actions of the Purchaser, its representatives, agents or contractors shall be paid from the funds to which Seller shall otherwise be entitled. If such funds are insufficient to pay all such encumbrances, Seller shall pay the deficiency.

(c) **Closing Costs.** Seller shall pay for any transfer taxes, if any, the cost of recording any instruments required to discharge any liens or encumbrances against the Property, the premium for the Title Policy, any fees or commissions due to a real estate agent, Seller's attorney fees, and one-half of the customary closing costs

of the Title Company. Purchaser shall pay for recording Seller's deed, the state documentary fee (if any applicable), Purchaser's attorney fees and one-half of the customary closing costs of the Title Company.

10.4 Settlement Sheet. At the Closing, Seller and Purchaser shall execute a closing settlement sheet to reflect the credits, prorations and adjustments contemplated by or specifically provided for in this Agreement.

10.5 Post-Closing Adjustments. In general, without limiting any of the foregoing, Seller shall be entitled to all income, and shall pay all expenses, relating to the operation of the Property for the period prior to the Closing Date and Purchaser shall be entitled to all income, and shall pay all expenses, relating to the operation of the Property for the period commencing on the Closing Date and thereafter. Purchaser and Seller shall undertake, following Closing, to adjust between themselves, as of the Closing Date, any income or expenses of the Property that are not adjusted on the settlement statement. Seller shall pay promptly upon receipt any bills relating to the operation of the Property for periods prior to the Closing. If any action or inaction of Seller prior to closing causes the imposition of so called "roll back" taxes applicable to period prior to Closing, Seller shall also pay promptly upon receipt any so called "rollback taxes" imposed on the Property for periods prior to and after Closing. The terms, covenants and conditions of this paragraph will survive the Closing or termination of this Agreement without limitation as to time.

ARTICLE XI

Remedies

11.1 Breach by Seller. Time is of the essence of Seller's obligations hereunder. If Seller fails to comply with any of its obligations hereunder which are required to be performed at or prior to Closing, Purchaser, at Purchaser's option, shall be entitled to terminate this Agreement, whereupon the Deposit shall be returned to Purchaser and both parties shall be discharged from all duties and performance hereunder, except for any obligations which by their terms survive any termination of this Agreement. In the alternative, Purchaser shall be entitled to specific performance, or damages or both. Provided, however, that prior to seeking such specific performance and/or damages, in the event that Seller is in default of any provision hereof, which shall include the failure to provide any notice required by this Agreement, Purchaser, as a condition precedent to the exercise of such remedies, shall be required to give Seller written notice of the same. Seller shall have ten (10) days (or such longer period of time as is reasonably required so long as Seller is diligently pursuing said cure) from the receipt of such notice to cure the default or failure to provide notice. If Seller timely cures the default, the default shall be deemed waived and this Agreement shall continue in full force and effect.

11.2 Breach by Purchaser. Time is of the essence of Purchaser's obligations hereunder. In the event that Purchaser is in default of any provision hereof, which shall include the failure to provide any notice required by this Agreement, Seller, as a condition precedent to the exercise of its remedies or termination of this Agreement, shall be required to give Purchaser written notice of the same. Purchaser shall have Ten (10) Business Days (as defined below) (or such longer period of time as is reasonably required so long as Purchaser is diligently pursuing said cure) from the receipt of such notice to cure the default or failure to provide notice. If Purchaser timely cures the default, the default shall be deemed waived and this Agreement shall continue in full force and effect. If Purchaser fails to timely cure such default, Seller, as its sole and exclusive remedy, shall be entitled to terminate this Agreement and have the Deposit paid to Seller as liquidated damages. The parties hereby agree that the amount of the Deposit is a fair and reasonable estimate of the total detriment that Seller would suffer in the event of Purchaser's default and failure to duly complete the acquisition hereunder.

ARTICLE XII

Miscellaneous

12.1 Brokers. Seller hereby represents and warrants to Purchaser that its sole contact with the Purchaser regarding the Property has been made with the assistance of Eric Roth, CBRE, 8390 E Crescent Parkway, Suite 300, Greenwood Village, CO 80111, "Seller's Agent." Seller represents and warrants to Purchaser that Seller shall be solely responsible for all fees, commissions and compensation due to Seller's Agent, and Seller represents and warrants to Purchaser that no other brokers or finders have been engaged by Seller in connection with the transactions contemplated by this Agreement, or to its knowledge is in any way connected with any such transactions. Purchaser hereby represents and warrants to the Seller that its sole contact with the Seller regarding the Property has been made through Nancy Dayton, land consultant to the Town of Erie, and without the assistance of any other broker

or other third party. Purchaser represents and warrants to Seller that no brokers or finders have been engaged by it in connection with the transactions contemplated by this Agreement, or to its knowledge is in any way connected with any such transactions. Excepting only Seller's sole obligation to Seller's Agent as set forth herein above, Seller and Purchaser agree to save and hold each other free, clear and harmless from any claim, cost or expense, including reasonable attorney fees, for or in connection with any claims for commissions or compensation claimed or asserted by or through each respective party in connection with the transaction contemplated herein.

12.2 Interpleader. Seller and Purchaser mutually agree that, in the event of any controversy regarding the Deposit held by the Title Company, unless mutual written instructions for disposition of the Deposit are received by the Title Company, the Title Company shall not take any action, but instead shall wait any proceeding, or else shall interplead all parties and deposit the Deposit into a court of competent jurisdiction.

12.3 General. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the party or parties to be bound. No waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the party against whom it is sought to be enforced. This Agreement contains the entire agreement between the parties relating to the purchase and sale of the Property. All prior negotiations between the parties are merged in this Agreement, and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between the parties other than as expressly herein set forth. Each of the parties hereto undertakes and agrees to execute and deliver such documents, writings and further assurances as may be requisite to carry out the intent and purpose of this Agreement. This Agreement may be executed in one or more counterparts, each of which will constitute an original, and all of which together shall constitute one and the same agreement. Executed copies hereof may be delivered by facsimile or electronic delivery and, upon receipt, shall be deemed originals and binding upon the parties hereto. Without limiting or otherwise affecting the validity of executed copies hereof that have been delivered by facsimile, the parties will use their best efforts to deliver originals as promptly as possible after execution. If any date set forth in this Agreement for the delivery of any document or the happening of any event (such as, for example, the expiration of the Inspection Period or the Closing Date) should, under the terms hereof, fall on a day other than a Business Day, then such date shall be automatically extended to the next succeeding Business Day. For purposes of this Agreement, "Business Day" means each day of the year other than Saturdays, Sundays, holidays and days on which banking institutions are generally authorized or obligated by law or executive order to close in the State of Colorado. For purposes of this Agreement, "Effective Date" means the date that this Agreement has been executed by both Seller and Purchaser, as evidenced by later of the dates on the signature blocks below. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado. The paragraph headings that appear in this Agreement are for purposes of convenience of reference only and are not in any sense to be construed as modifying the substance of the paragraphs in which they appear. Purchaser may assign this Agreement without Seller's written consent, provided that Purchaser provides Seller with prompt notice of the assignment. Any such assignee shall assume all obligations imposed on Purchaser as if the assignee were the original Purchaser under this Agreement. Any assignment of this Agreement by Purchaser shall relieve Purchaser of its obligations and liabilities hereunder. Should Seller consist of more than one person or entity, they shall be jointly and severally liable under this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives, successors and permitted assigns. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of Purchaser 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.

12.4 Notices. Any notice required or permitted to be sent pursuant to this Agreement shall be in writing and shall be deemed received (a) within the same Business Day when personally delivered; (b) within the same Business Day when sent by confirmed electronic delivery; (c) three (3) days after having been deposited in a U.S. Postal Service depository and sent by registered or certified mail, return receipt requested, with all required postage prepaid, and addressed; or (d) the next Business Day after deposit with Federal Express or a similar overnight courier service, with delivery charges for morning delivery on the next Business Day prepaid. Either party may change its address for notices by written notice to the other party in accordance with this Section 12.4:

If to Seller:

Norman Brenden
Erie Ventures LLC

Colson & Colson Construction Co.
3950 Fairview Industrial Drive SE
Suite 240
Salem, OR 97302-1166
E-mail: RGoins@Hawthornecg.com

with a copy (which shall not constitute notice) to:

Eric Roth
CBRE
8390 E Crescent Parkway, Suite 300
Greenwood Village, CO 80111
Email: Eric.Roth@CBRE.com

If to Purchaser:

Town of Erie
P.O. Box 750
Erie, Colorado 80516
Attn: Farrell Buller, Acting Town Administrator
Telephone: (303) 926-2700
E-mail: fbuller@erieco.gov

Any address fixed pursuant to the foregoing may be changed by the addressee by notice given pursuant to this Section 12.4.

(Signature Page follows)

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

SELLER:

ERIE VENTURES LLC, an Oregon limited liability company

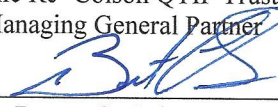
By: 

Norman L. Brenden

Title: Manager

COLSON & COLSON CONSTRUCTION CO.,
an Oregon general partnership

By: Bonnie Re' Colson QTIP Trust,
Its Managing General Partner

By: 

Barton G. Colson

Title: Trustee

Date of Execution: October 18, 2018

PURCHASER:

TOWN OF ERIE, a Colorado municipal corporation

By: _____
Jennifer Carroll, Mayor

ATTEST:

By: _____
Jessica Koenig, Town Clerk

Date of Execution: _____

EXHIBIT A

LEGAL DESCRIPTION

The Property consists of approximately two hundred fifty-five (255) acres located in the Section 15, Township 1 North, Range 68 West of the 6th P.M., County of Weld, State of Colorado, as generally shown on the map attached to this Exhibit "A," marked Exhibit "A-1."

ALL 15-1-68 EXC SW4 & S2NW4 ALSO EXC BEG 30'N & 50'W OF SE COR SEC S89D37'W 2531' N446.65' M/L N67D57'E 1775.5' N13D25'E 1060' TO S LN UPRR TH SELY ALG R/W TO PT 100'W OF E LN SEC S835' S09D50'E 300' S683' TO BEG EXC BEG NW COR SEC S89D51'E 1383.98' S45D37'E 487.18' S44D24'E 1369.56' N89D59'W 2689.03' N0D03'W 1322.4' TO BEG EXC 18.6A HWY EXC UPRR RES (1.68R 44RR), Weld County Parcel Number 146715000065 and Tax ID R5727886; ownership held by Erie Ventures LLC (78%) and Colson & Colson Construction Company (22%); and

PT S2 15-1-68 BEG 30'N & 50'W OF SE COR SEC S89D37'W 2919' N227' N67D57'E 2193' N13D25'E 1060' TO S LN UPRR SELY ALG R/W TO PT 100'W OF E LN SEC S835' S09D50'E 300' S682' TO BEG (65.29A) EXC BEG SE COR SEC S89D31'W 928.76' N00D28'W 30' TO TPOB TH S89D31'W 1751.4' TO POINT 30' N S4 COR TH N87D48'E 1490.16' N80D13'E 594.57' N09D29'E 1655.07' N0D04'W 96.35' TH ALG CURVE TO R (R=1772.26') CHORD=69DE 85.73' TH S0D04'E 961.34' S09D29'W 842.2' S78D41'W 239.56' S89D31'W 304.01' TO TPOB EXC UPRR RES (EAGLE MINE) (14RR), Weld County Parcel Number 146715000037 and Tax ID R5727086; also known as 3747 Erie Parkway, Erie, Colorado; Ownership held by Erie Ventures LLC

The exact legal description to be determined by an ALTA survey, as set forth in Section 2.4 of the Agreement. The exact legal description shall be substituted into this Agreement in place of this Exhibit "A" once it is determined by the ALTA survey.

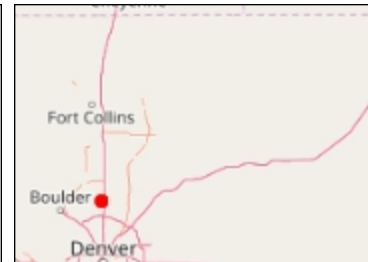


Legend

- Parcels
- Highway
- Road
- Road
- Highway
- County Boundary

Notes

Erie Ventures LLC and Colson & Colson
Construction Company



2,288.3 0 1,144.15 2,288.3 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Weld County Colorado

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

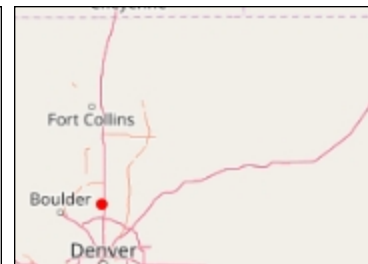
THIS MAP IS NOT TO BE USED FOR NAVIGATION



- Legend
- Parcels
 - Highway
 - County Boundary

Notes

Erie Ventures LLC



1,144.2 0 572.08 1,144.2 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

© Weld County Colorado

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION