

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

**A RESOLUTION AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO A SIXTH AMENDMENT TO THE BRIDGEWATER ANNEXATION AGREEMENT; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID SIXTH AMENDMENT; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado and Tallgrass Investors, LLC and the Community Development Group of Erie, Inc., (Tallgrass Investors, LLC and the Community Development Group of Erie, Inc. together referred to as the “Owners”), previously entered into the Bridgewater Annexation Agreement on October 9, 2007; and,

**WHEREAS**, the Owners and the Town previously entered into the First Amendment of the Bridgewater Annexation Agreement on December 14, 2010; and,

**WHEREAS**, the Owners and the Town previously entered into the Second Amendment of the Bridgewater Annexation Agreement on September 27, 2011; and,

**WHEREAS**, the Owners and the Town previously entered into the Third Amendment of the Bridgewater Annexation Agreement on January 8, 2013; and,

**WHEREAS**, the Owners and the Town previously entered into the Fourth Amendment of the Bridgewater Annexation Agreement on July 23, 2013; and,

**WHEREAS**, the Owners and the Town previously entered into the Fifth Amendment of the Bridgewater Annexation Agreement on December 9, 2014; and,

**WHEREAS**, the Owners and the Town, desire to enter into a Sixth Amendment to the Bridgewater Annexation Agreement; and,

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into the Sixth Amendment to the Bridgewater Annexation Agreement.

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

Section 1. That the Sixth Amendment to the Bridgewater Annexation Agreement between the Town of Erie and Owners, a copy of which is attached hereto, marked “Exhibit A,” and incorporated herein by reference, is found to be reasonable and acceptable.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the Sixth Amendment, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said Sixth Amendment.

Section 3. That entering into the Sixth Amendment is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

**ADOPTED AND APPROVED THIS 9<sup>TH</sup> DAY OF MAY, 2017, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.**

**TOWN OF ERIE,**  
a Colorado municipal corporation

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

ATTEST:

By: \_\_\_\_\_  
Nancy Parker, Town Clerk

Exhibit A

**SIXTH AMENDMENT TO THE  
BRIDGEWATER ANNEXATION AGREEMENT**

**THIS SIXTH AMENDMENT TO THE BRIDGEWATER ANNEXATION AGREEMENT** (“Sixth Amendment”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2017 (the “Effective Date”), by and between the TOWN OF ERIE, a Colorado municipal corporation, in the Counties of Weld and Boulder, State of Colorado, hereinafter referred to as “Erie” or “Town”, and TALLGRASS INVESTORS, LLC, a Colorado limited liability company and COMMUNITY DEVELOPMENT GROUP OF ERIE, INC., a Colorado corporation, 2500 Arapahoe Avenue, Suite 220, Boulder, Colorado, 80302, hereinafter jointly referred to in the singular as “Owner”.

**WHEREAS**, Erie and Owner previously entered into that certain Bridgewater Annexation Agreement, dated October 9, 2007 and recorded on November 19, 2007 at Reception No. 3518317 in the records of the Weld County Clerk and Recorder (the “Original Agreement”); and,

**WHEREAS**, Erie and Owner previously entered into the First Amendment to the Bridgewater Annexation Agreement, dated December 13, 2010 and recorded on December 30, 2010 at Reception No. 3741841 in the records of the Weld County Clerk and Recorder (the “First Amendment”); and,

**WHEREAS**, Erie and Owner previously entered into the Second Amendment of the Bridgewater Annexation Agreement, dated October 4, 2011 and recorded on October 12, 2011 at Reception No. 3798317 in the records of the Weld County Clerk and Recorder (the “Second Amendment”); and,

**WHEREAS**, Erie and Owner previously entered into the Third Amendment of the Bridgewater Annexation Agreement, dated January 8, 2013 and recorded on January 21, 2013 at Reception No. 3904988 in the records of the Weld County Clerk and Recorder (the “Third Amendment”); and,

**WHEREAS**, Erie and Owner previously entered into the Fourth Amendment of the Bridgewater Annexation Agreement, dated July 23, 2013 and recorded on October 6, 2014 at Reception No. 4051656 in the records of the Weld County Clerk and Recorder (the “Fourth Amendment”); and

**WHEREAS**, Erie and Owner previously entered into the Fifth Amendment of the Bridgewater Annexation Agreement, dated December 9, 2014 and recorded on December 15, 2014 at Reception No. 4068366 in the records of the Weld County Clerk and Recorder (the “Fifth Amendment”), the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and the Fifth Amendment together referred to in the singular hereinafter as the “Agreement”; and,

**WHEREAS**, Erie and Owner desire to amend the Agreement to modify, amend and add certain terms and provisions to the Agreement, as set forth herein below.

**NOW, THEREFORE**, in consideration of the foregoing, the parties hereto promise, covenant and agree as follows:

1. Terms and words used herein shall have the same definition and meaning as those terms and words set forth and defined in the Agreement unless specifically stated otherwise herein.

2. Section XI.R., “Building Permit Allocation,” of the Agreement (as set forth in the Third Amendment) is hereby deleted in its entirety and replaced by the following new Section XI.R., to read as follows:

**R. Building Permit Allocation.** The Town and Owner agree to the creation of a residential building permit allocation program (“Building Permit Program”) for the Property. This Building Permit Program does not guarantee raw water rights to the Owner for the Building Permit Program building permits identified herein below. This Building Permit Program is intended to guarantee to the Town that water and sewer taps (excluding the cash-in-lieu fee for raw water, if applicable), all current Town Impact Fees (transportation, parks, public facilities, street trees, and drainage) and applicable development fees will be purchased and/or paid for each Filing within the First Development Phase, at the then current rates, whether or not a corresponding building permit is issued. The Owner shall not be required to pre-purchase any water taps, sewer taps, or pay Impact Fees or applicable development fees during any specific time period in which the Town has refused to issue water taps or sewer taps due to insufficient availability of water or sewer service. The Town agrees to reserve adequate system capacity (not water dedication) for any water taps or sewer taps pre-purchased pursuant to this Section XI.R. As of the execution of this Sixth Amendment, the current cost of each pre-purchased water tap, sewer tap and impact fees and applicable development fee is \$31,409.00 per unit, which cost shall increase to the then applicable rate at the time of pre-payment by the Owner. Owner shall pay the cash-in-lieu fee for raw water and any additional fees or balances due for pre-paid fees at the time of building permit application. The Building Permit Program as described herein will commence at the time final plats are recorded, LOCs have been posted with the Town for the public improvements of each filing and title for lots within each filing have been transferred from Owner to third party homebuilders. As lots within each final plat are transferred from the Owner to the third party homebuilder, the third party homebuilder will enter into an agreement with the Town containing the following provisions: 1) requirement that the third party homebuilder purchase building permits for all lots in the applicable filing within six (6) years from the date of the purchase of the lots, 2) in the event building permits have not been purchased for all lots within the filing within the six (6) year period the third party homebuilder agrees to pre pay the applicable fees described herein above for all remaining lots in the filing, 3) the Building Permit Program will provide that, once the agreement required herein is signed by the third party homebuilder and the Town, the Town will issue a building permit for all such lots for which pre-payment has been made as provided for herein, subject to a) payment of all

remaining and required fees and costs, and b) adequate and sufficient water and sewer availability for the requested building permit, and 4) the Town agrees that the lots for which building permits have been issued by the Town will be exempt from any future plat or permit restrictions based on growth control measures.

3. In the event of any conflict, inconsistency or incongruity between the provisions of this Sixth Amendment and any of the provisions of the Agreement, the provisions of this Sixth Amendment shall in all respects govern and control.

4. Except as specifically amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

*[Signatures on following page]*

IN WITNESS WHEREOF, the parties have executed this Sixth Amendment as of the date first set forth above.

**ERIE:**  
**TOWN OF ERIE, a Colorado municipal corporation**

**OWNER:**  
**COMMUNITY DEVELOPMENT GROUP OF ERIE, INC. a Colorado corporation**

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

By: \_\_\_\_\_  
Charles R. Bellock, President

**ATTEST:**

**ATTEST:**

By: \_\_\_\_\_  
Nancy Parker, Town Clerk

By: \_\_\_\_\_  
Jon R. Lee, Authorized Representative

**OWNER:**  
**TALLGRASS INVESTORS, LLC, A Colorado limited liability company**

By: \_\_\_\_\_  
Charles R. Bellock, Manager

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

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by Charles R. Bellock as President and Jon R. Lee as Authorized Representative of Community Development Group of Erie, Inc.

Witness my hand and official seal.  
My Commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

