

## GRANT OF PERMANENT ACCESS AND UTILITIES EASEMENT AGREEMENT

**THIS GRANT OF PERMANENT ACCESS AND UTILITIES EASEMENT AGREEMENT**, ("Agreement") made and entered into this 7 day of May, 2018, by and between RH Erie LLC, whose address is 2223 Market Place Dr., Erie, CO., 80156, hereinafter referred to as the "Grantor," and the TOWN OF ERIE, a Colorado Municipal Corporation, whose address P.O. Box 750, 645 Holbrook Street, Erie, Colorado 80516, hereinafter referred to as the "Grantee," collectively, the "Parties".

### WITNESSETH:

**WHEREAS**, Grantor is the owner of real property located in Weld County, State of Colorado, more particularly described on Exhibit "A," attached hereto and made a part hereof (the "Property").

**WHEREAS**, the Parties desire to provide for a permanent access and utilities easement across a portion of the Property in the location more particularly described on Exhibit "B," attached hereto and made a part hereof (the "Easement Property"), in accordance with the provisions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee mutually agree as follows:

1. *Grant of Easement.* Grantor hereby grants and conveys to Grantee, its successors and assigns, a permanent, perpetual non-exclusive easement to enter, occupy and use the Easement Property to construct, reconstruct, use, operate, maintain, repair, patrol, replace, enlarge and remove one or more water lines, sanitary sewer lines, storm drainage facilities, pipelines, conduits, vaults, accessories, improvements, or manholes and all necessary underground wires and appurtenances thereto, including, but not limited to, electric or other control systems, video or other control systems, cables, wires, connections, conduits, and surface appurtenances (the "Improvements") in, through, over, across, under and above the Easement Property (the "Easement").

2. *Ingress and Egress.* The Grantee, its employees, agents, contractors, representatives, successors and assigns shall have and exercise the right of ingress and egress in, to, through, over, under, above and across the Property for access to and from the Easement Property in order to perform construction, reconstruction, operation, installation, use, maintenance, repair, replacement, upkeep, monitoring, and removal of the Improvements.

3. *No Structures or Buildings to interfere with the Easement.* The Grantor shall not construct or place any structure or building, yard light, shrub, tree, woody plant or nursery stock, whether temporary or permanent, of any kind or nature situated on the Easement Property that will interfere with or obstruct the access or Easement granted herein. Any such structure or item placed on the Easement Property may be removed by the Grantee without liability for damages arising there from. Grantor shall retain the right to make use of the servient property of the

Easement Property, except for such prohibitions as are contained herein, and except for such use as might endanger or interfere with the rights of the Grantee in its use of the Easement. If Grantor constructs or places any structure or building or item prohibited herein on the Easement Property, Grantor shall reimburse the Grantee for Grantee's expenses in removing such structure or prohibited item from the Easement Property.

4. *Grantor's Warranty.* Grantor warrants that it has full right and lawful authority to make the grant of the Easement herein contained, and promises and agrees to defend against any defect in title to the Easement Property, the Easement or the right to make the grant of the Easement as herein contained.

5. *Non-exclusive Use.* The Grantee agrees, following written request to and approval by Grantee, that public utilities such as water, sanitary sewer, storm sewer, gas, electric lines, and other appropriate utilities may be installed in the Easement Property as long as such utilities do not interfere with the Grantee's rights as herein granted or the Grantee's use of the Easement and the Easement Property. All surface and subsurface uses of the Easement Property, including fences, must be approved in writing by the Grantee prior to installation.

6. *Damage, Maintenance of Grantor's Improvements.* The Grantor, at its expense, shall be solely responsible for the maintenance of all Grantor improvements which may be located within the Easement Property. In the event said Grantor improvements within the Easement Property are damaged due solely to Grantee's negligence, the Grantee will repair and or replace the said improvements at Grantee's expense.

7. *Ownership, Maintenance of Grantee's Improvements, Damage.* Following completion of the construction and installation of the Improvements, the Improvements shall be the property of the Grantee and shall be owned by the Grantee. The Grantee, at its expense, shall be solely responsible for the maintenance and repair of the Improvements, once installed by the Grantee. Repair and or replacement of the said Improvements shall be at Grantee's sole expense.

8. *Protection of Easement.* The Grantee is acquiring the Easement in order to ensure to the Grantee a dominant easement for the exercise of Grantee's functions, and the exercise of any rights in the subject Easement other than those retained by the Grantor shall be within the discretion of the Grantee.

9. *Inurement.* Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.

10. *Complete Agreement.* This Agreement represents the complete agreement between the parties hereto, and supersedes any and all other prior agreements, written and oral, between the parties.

11. *Headings for Convenience Only.* The paragraph headings of this Agreement are for convenience only and the substantive portions hereof control without regard to the headings.

12. *Subjacent and Lateral Support.* The Grantor shall not impair the lateral or subjacent support for the Easement or the Improvements located therein.

13. *Cooperation.* The Grantor shall cooperate with the Grantee and shall not impair the Grantee's use of the Easement or the Improvements located therein.

14. *Modification.* This Agreement shall be modified in writing only, which writing must be executed by the parties hereto in order to be effective.

15. *Controlling Law.* This Agreement shall be governed under, and construed pursuant to, the laws of the State of Colorado, and the parties hereto agree to jurisdiction in the Courts of Weld County, Colorado.

16. *Annual Appropriations.* All financial obligations of Grantee set forth in this Agreement are subject to annual appropriation pursuant to C.R.S. § 29-1-110, as amended.

17. *Recordation of Agreement.* This Agreement shall be recorded by the Grantee in the real property records of the County of \_\_Weld\_\_, State of Colorado.

*[Signatures on following page]*



IN WITNESS WHEREOF, the parties hereto have executed this GRANT OF PERMANENT ACCESS AND UTILITIES EASEMENT AGREEMENT as of the day and year first above written.

GRANTOR:

By: [Signature]  
(Name) Dora Simonds

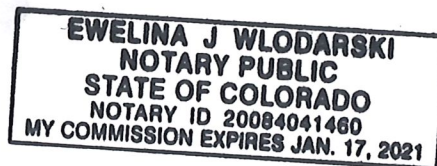
STATE OF COLORADO)  
) ss.  
COUNTY OF Denver

The foregoing instrument was acknowledged before me this 7 day of May, 2018,  
by Dora Simonds.

WITNESS my hand and official seal.  
My commission expires:

Ewelina J Wlodarski  
Notary Public

GRANTEE:  
TOWN OF ERIE, a Colorado municipal  
corporation



By: \_\_\_\_\_  
Jennifer Carroll, Mayor

ATTEST:

By: \_\_\_\_\_  
Town Clerk

## EXHIBIT B

### Legal Description:

A parcel of land situated in the S ½ of Section 33, Township 1 North, Range 68 West, of the 6<sup>th</sup> P.M., being a part of Lot 3A, Vista Ridge Filing No. 14, Fourth Amendment (Rec. No. 4347550), Town of Erie, County of Weld, State of Colorado, being more particularly described as follows:

**Commencing** at the Northwest corner of said Lot 3A;

Thence S00°21'23"W along the West Line of said Lot 3, a distance of 15.00 feet to a point on the South Line of a 15 foot Utility Easement recorded at Reception No. 4252509, Weld County Records;

Thence N90°00'00"E along the South Line of said 15 foot Utility Easement, a distance of 63.25 feet to the **Point of Beginning**;

Thence N90°00'00"E along the South Line of said 15 foot Utility Easement, a distance of 13.25 feet;

Thence S00°00'00"E a distance of 10.52 feet;

Thence N00°00'00"W a distance of 13.25 feet;

Thence N00°00'00"E a distance of 10.52 feet to the **Point of Beginning**.

Parcel Contains (139 Square Feet) 0.0032 Acres.

Date Prepared: March 12, 2018

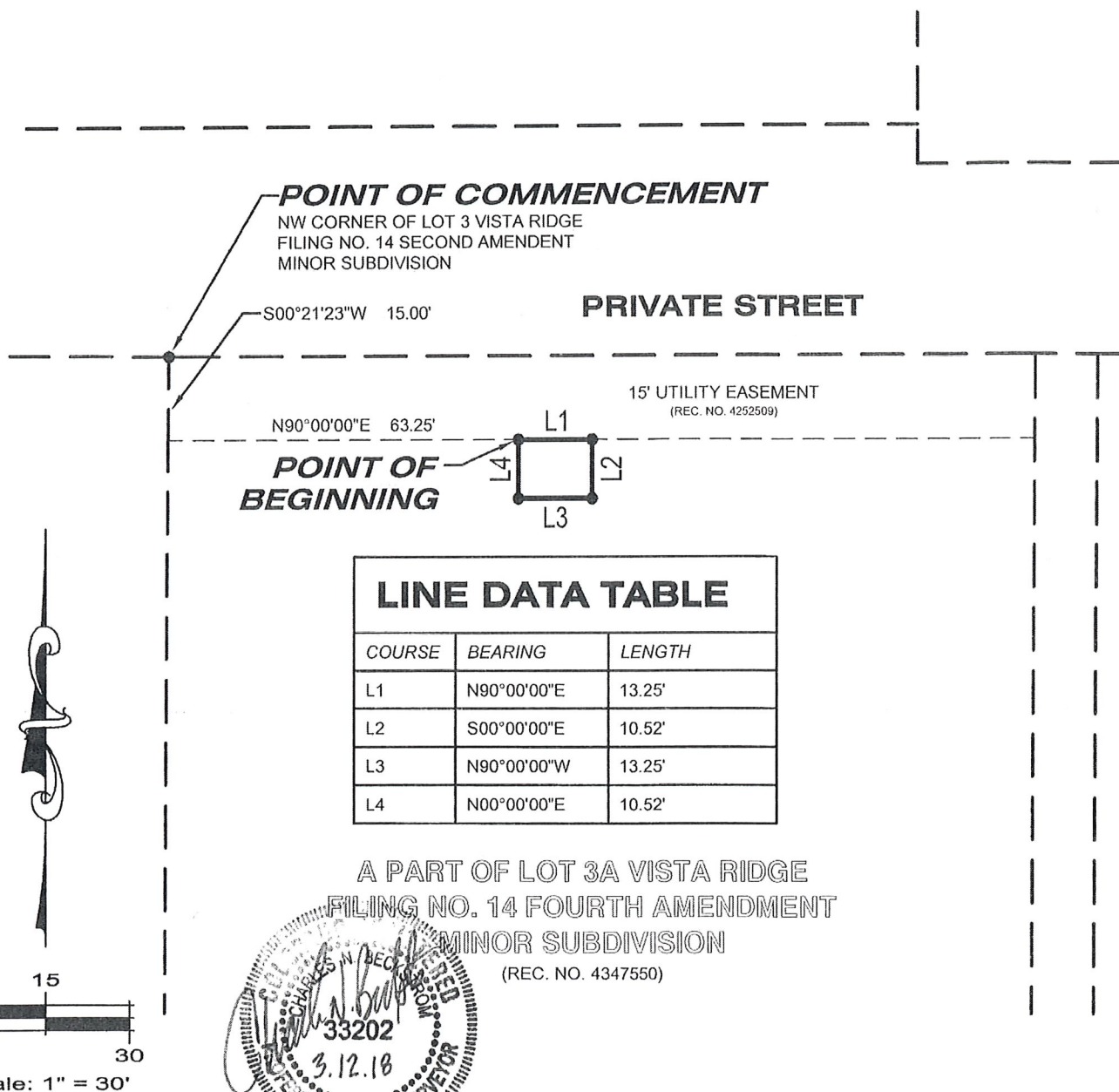
Date Of Last Revision:

Prepared By: Charles N. Beckstrom, PLS No. 33202

For And On Behalf Of  
Engineering Service Company  
14190 E. Evans Ave.  
Aurora, Colorado 80014  
Phone: (303) 337-1393



# ILLUSTRATION FOR EXHIBIT B



**ESC**  
**ENGINEERING**  
**SERVICE**  
**COMPANY**

14190 East Evans Avenue  
Aurora, Colorado 80014  
P 303.337.1393 | F 303.337.7481

PROPERTY OWNER:

**RUBY HILL DEVELOPMENT LLC**  
10515 E. 40th AVE. SUITE 101  
DENVER, CO 80239

**PARCEL CONTAINS**  
139 SQUARE FEET  
0.0032 ACRES

**TOWN OF ERIE**

**WATER EASEMENT**

Drawn By: **NAS** | Checked By: **CNB** | Project No.: **144.074** | Date: **3/9/2018**  
Scale: **1"=30'** | File Name: **LOT 3, VISTA RIDGE FILING NO. 14**

A PART OF THE SW 1/4 OF SECTION 33, T.1N, R.68W, OF THE 6TH P.M.  
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

Note: This exhibit does not represent a monumented survey. It is intended only to depict the attached description.

## Inverse With Area

Mon Mar 12 08:39:42 2018

PntNo	Bearing	Distance	Northing	Easting	Description
PP			8798.09	15973.15	
	N 90°00'00" E	13.25			
PP			8798.09	15986.40	
	S 00°00'00" E	10.52			
PP			8787.57	15986.40	
	N 90°00'00" W	13.25			
PP			8787.57	15973.15	
	N 00°00'00" W	10.52			
PP			8798.09	15973.15	
Closure Error Distance> 0.0000					
Total Distance Inversed> 47.53					

Area: 139 Sq. Feet, 0.0032 Acres