

PERMANENT UTILITY EASEMENT AGREEMENT

This PERMANENT UTILITY EASEMENT AGREEMENT (the "Agreement") is made and executed this _____ day of _____, 2019 (the "Effective Date"), by and between CalAtlantic Group, Inc., a Delaware corporation with an address of 9193 S. Jamaica Street 4th Floor, Englewood, CO 80112 ("Grantor"), and the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, 645 Holbrook Street, Erie, CO 80516 (the "Town") (each a "Party" and collectively the "Parties").

WHEREAS, Grantor is the owner of the real property in the Town of Erie, Boulder County, Colorado more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Easement Property");

WHEREAS, the Town wishes to construct and install, and thereafter use, operate, inspect, maintain and repair sewer, water and storm sewer facilities and related appurtenances and facilities on, over, across and under the Easement Property, as depicted in **Exhibit B**, attached hereto and incorporated herein by this reference (the "Facilities");

WHEREAS, for this purpose, Grantor is willing to convey this permanent easement to the Town, which allows the Town to install, operate, use, repair and maintain sewer, water and storm sewer facilities upon and beneath the surface of the property described in **Exhibit A**, as the Easement Property; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained here, Grantor and the Town mutually agree as follows:

1. Grant of Easement. Grantor hereby grants to the Town, its successors and assigns, lessees, licensees and agents, a permanent, perpetual, non-exclusive easement (the "Easement") in the Easement Property to enter, re-enter, occupy and use the Easement Property to construct, reconstruct, use, operate, maintain, repair, patrol, replace, enlarge and remove the Facilities.
2. Town's Rights. The Town and 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 Easement Property for access to perform construction, reconstruction, operation, installation, use, maintenance, repair, replacement, upkeep, monitoring, and removal of the Facilities.
3. Non-exclusive Use. The Town agrees, following written request to and approval by the Town, that other public utilities may be installed in the Easement Property if such utilities do not interfere with the Town's rights as herein granted or the Town's use of the Easement and Easement Property. All surface and subsurface uses of the Easement Property must be approved in writing by the Town prior to installation.
4. Restoration and Maintenance and Restoration. Following installation of the Facilities, the Town will restore the existing landscaping, irrigation system and trail in the Easement Property, provided that the landscaping will be located so it will not interfere with the Facilities. The Town shall be solely responsible for maintaining the Facilities. All Facilities shall remain the Town's property.

10/7/2019

Q:\COMPASS - ERIE FARMS - YOUNG\COMPASS FILING 4\UTILITY EASEMENT-A092119.DOCX

5. No Interference. Grantor shall not construct or place any structure or building, 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 prohibited structure or item placed on the Easement Property may be removed by the Town at Grantor's expense and without liability to the Town for damages arising therefrom.
6. Maintenance of Grantor's Improvements. Grantor shall be solely responsible for the maintenance of all Grantor's improvements located within the Easement Property.
7. Retained Rights. Grantor shall have all rights to the Easement Property not granted hereby.
8. Warranty. Grantor warrants that it has the full right and legal authority to make the grant of this Easement.
9. Recordation. Except as otherwise expressly provided herein, all provisions of this Agreement, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. The Town shall record this Agreement in timely fashion in the official records of Boulder County and may re-record it at any time as may be required to preserve its rights in this Agreement.
10. No Merger. It is the express intent of the Parties that the doctrine of merger shall not apply to this Agreement and there will be no merger of estate between the Easement granted by this Agreement and the Property.
11. Miscellaneous.
 - a. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.
 - b. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.
 - c. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.
 - d. Third Parties. There are no intended third-party beneficiaries to this Agreement.
 - e. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent prepaid, first-class United States Mail to the Party at the address set forth on the first page of this Agreement.
 - f. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

EXHIBIT A

Legal Description of Easement Property

EXHIBIT

**COMPASS
WATER EASEMENT 01**

PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF TRACT A1, COMPASS FILING NO. 3 AMENDMENT 1, RECORDED UNDER RECEPTION NO. 03669887 IN THE RECORDS OF THE BOULDER COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED BY A 3-1/4" ALUMINUM CAP STAMPED "PLS 16406" AT THE CENTER QUARTER CORNER AND A 2" ALUMINUM CAP STAMPED "PLS 14083" AT THE EAST QUARTER CORNER, BEARING S89°42'39"E PER THE PLAT OF COMPASS FILING NO. 3 AMENDMENT 1.

BEGINNING AT THE CENTER QUARTER CORNER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN:

THENCE ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, S89°42'39"E A DISTANCE OF 1,432.52 FEET, TO THE NORTHEASTERLY CORNER OF TRACT A1, COMPASS FILING NO. 3 AMENDMENT 1, RECORDED UNDER RECEPTION NO. 03669887 IN THE RECORDS OF THE BOULDER COUNTY CLERK AND RECORDER;

THENCE DEPARTING SAID NORTH LINE, ON THE EASTERLY LINE OF SAID TRACT A1, S00°21'27"W A DISTANCE OF 46.34 FEET, TO A POINT ON THE SOUTHERLY LINE OF SAID TRACT A1;

THENCE ON SAID SOUTHERLY LINE, N89°38'33"W A DISTANCE OF 552.00 FEET;

THENCE DEPARTING SAID SOUTHERLY LINE, N89°38'33"W A DISTANCE OF 30.00 FEET, TO A POINT ON THE SOUTHERLY LINE OF SAID TRACT A1;

THENCE ON SAID SOUTHERLY LINE, N89°38'33"W A DISTANCE OF 560.00 FEET, TO THE NORTHWESTERLY CORNER OF LOT 11A, BLOCK 1;

THENCE DEPARTING SAID SOUTHERLY LINE, S85°39'15"W A DISTANCE OF 62.17 FEET, TO A POINT ON THE NORTHERLY LINE OF LOT 10, BLOCK 1, COMPASS FILING NO. 3 RECORDED UNDER RECEPTION NO. 03623049;

THENCE ON SAID NORTHERLY LINE AND ITS EXTENSION, N89°42'39"W A DISTANCE OF 228.05 FEET, TO A POINT ON THE WEST LINE OF SOUTHEAST QUARTER OF SECTION 25;

THENCE ON SAID WEST LINE, N00°13'48"W A DISTANCE OF 50.00 FEET, TO THE POINT OF BEGINNING;

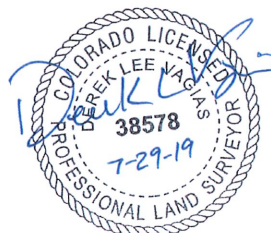
CONTAINING A CALCULATED AREA OF 66,498 SQUARE FEET OR 1.5266 ACRES.

EXHIBIT ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

PROPERTY DESCRIPTION STATEMENT

I, DEREK LEE VAGIAS, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

DEREK LEE VAGIAS, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 38578
FOR AND ON BEHALF OF JR ENGINEERING, LLC

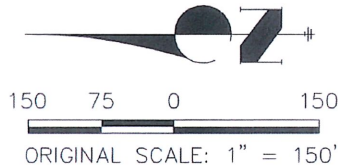
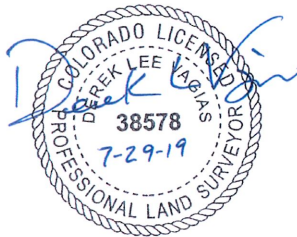


EXHIBIT

E 1/4 COR. SEC. 25
FOUND 2" ALUMINUM CAP
STAMPED: PLS 14083

NE 1/4 SEC. 25,
T1N, R69W, 6TH P.M.

UNPLATTED



BASIS OF BEARING
NORTH LINE SE 1/4 SEC. 25
S89°42'39"E 2701.53'

10' UTILITY
EASEMENT

1432.52'

TRACT A1

30' UTILITY EASEMENT
REC. NO. 03623049

POINT OF BEGINNING
C 1/4 COR SEC. 25
FOUND NO. 6 REBAR
3-1/4" ALUMINUM CAP
STAMPED: PLS 16406

N00°13'48"W
50.00'

S00°21'27"W
46.34'

TRACT B1

COMPASS DRIVE

N89°38'33"W 552.00'

BLOCK 1

N89°38'33"W
30.00'

21A

COMPASS FILING NO. 3 -
AMENDMENT NO. 1
REC. NO. 03669887

20A

19A

18A

17A

16A

15A

14A

13A

12A

11A

10 BLOCK 1

N89°38'33"W 560.00'

WEST LINE SE 1/4 SEC. 25

S85°39'15"W
62.17'

COMPASS FILING NO. 3
REC. NO. 03623049

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED PROPERTY DESCRIPTION.

WATER EASEMENT
COMPASS FILING 3-AMENDMENT 1
PROJECT NO.: 15708.08
DATE: 07/29/19

SHEET: 2 OF 2



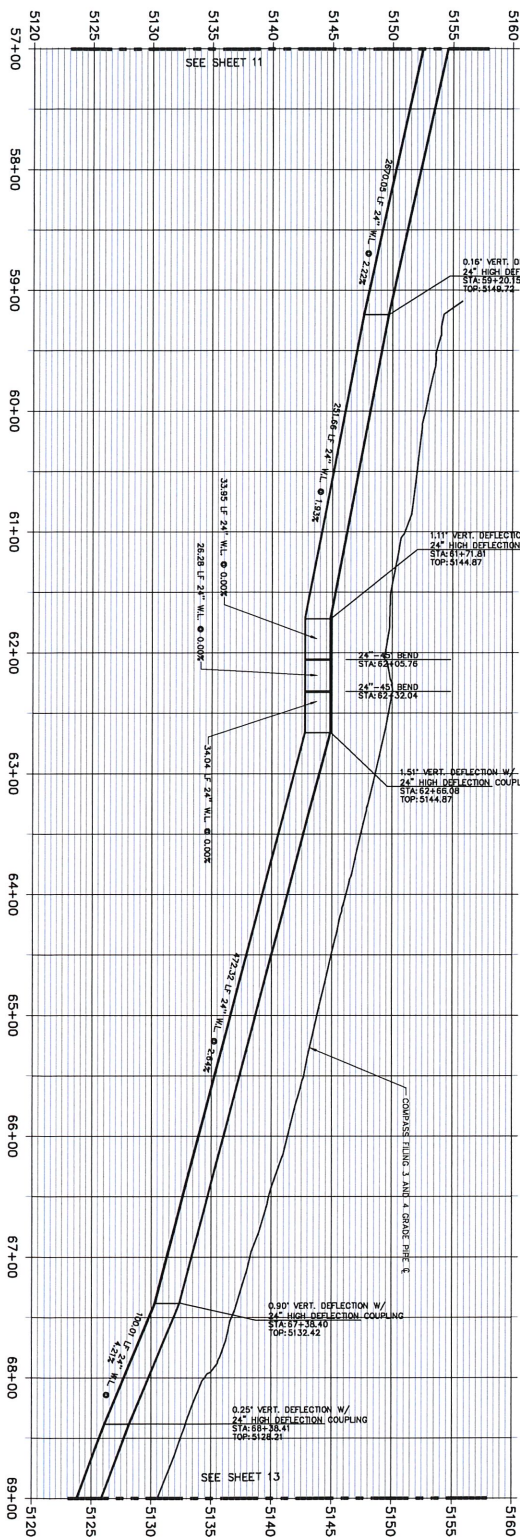
J-R ENGINEERING

A Westrian Company

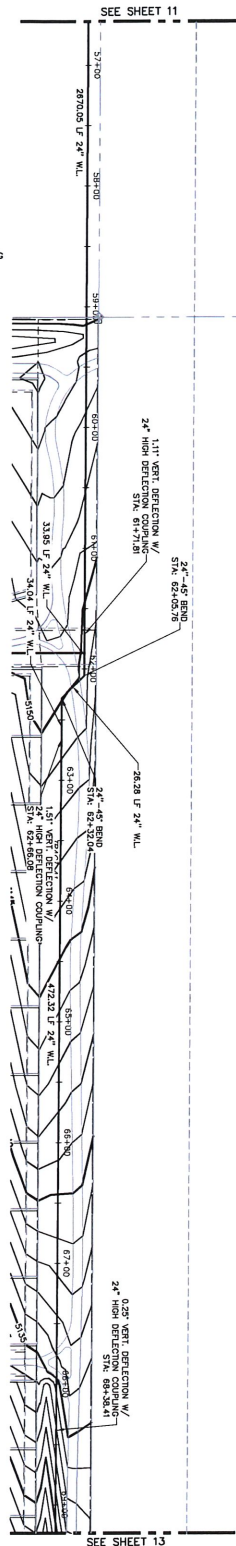
Centennial 303-740-9399 • Colorado Springs 719-593-2593
Fort Collins 970-491-9888 • www.jrengineering.com

EXHIBIT B

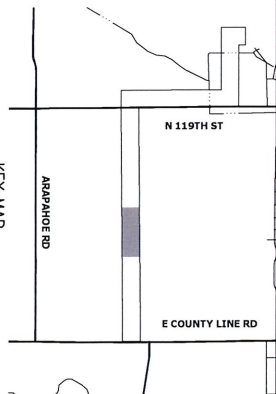
Depiction of Facilities




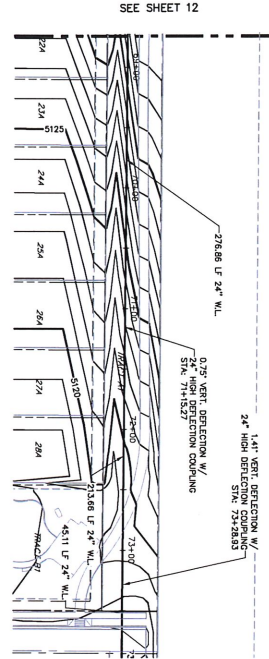
WP01 PROFILE (6)
STA 57+00.00 TO 69+00.00



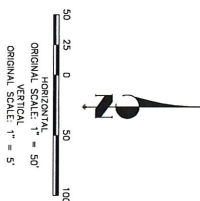
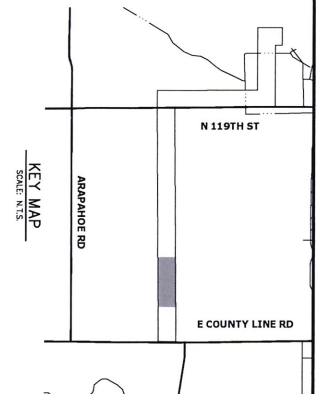
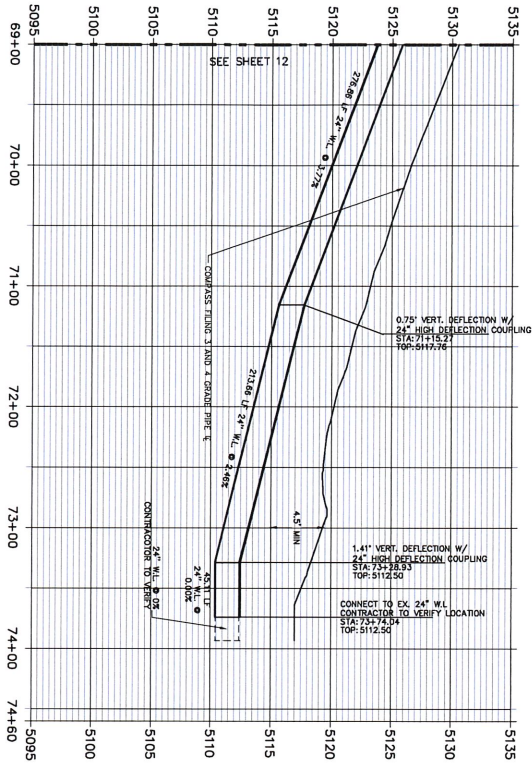
KEY MAP
SCALE: N.T.S.



SHEET 12 OF 28 JOB NO. 157003.08	ZONE 3 WATERLINE EXTENSION - PHASE 2 WP01 PLAN & PROFILE	H-SCALE 1"=50'	No.	REVISION	BY	DATE	 J-R ENGINEERING A Waterman Company Central 303-760-0000 • Colorado Springs 719-590-2580 Fort Collins 970-491-8888 • www.jr-engineering.com	PREPARED FOR TOWN OF ERIE DEPT OF PUBLIC WORKS 645 HOLBROOK STREET ERIE, CO 80518 ATTN: WENDI PALMER	UNTIL SUCH TIME AS THESE DRAWINGS ARE APPROVED BY THE APPROPRIATE REVIEWING AGENCIES, OR ENGINEERING APPROVES THEIR USE ONLY FOR THE PURPOSES DESIGNATED BY WRITTEN AUTHORIZATION.
		V-SCALE 1"=5'	DATE	DESIGNED BY	DRAWN BY	CHECKED BY			
			08/16/19	JMF	AJH				



WP01 PROFILE (7)
STA 69+00.00 TO 74+60.00



ZONE 3 WATERLINE EXTENSION -
PHASE 2

WP01 PLAN & PROFILE

H-SCALE	1"=50'	No.	REVISION	BY	DATE
V-SCALE	1"=5'				
DATE	08/16/19				
DESIGNED BY	JMF				
DRAWN BY	AJH				
CHECKED BY					

J-R ENGINEERING
A Woodfin Company

Central 303-740-0993 • Colorado Springs 719-593-2580
Fort Collins 970-491-9888 • www.jr-engineering.com

PREPARED FOR

TOWN OF ERIE
DEPT. OF PUBLIC WORKS
645 HOLBROOK STREET
ERIE, CO 80516
ATTN: WENDI PALMER

UNTIL SUCH TIME AS
THESE DRAWINGS ARE
APPROVED BY THE
APPROPRIATE REVIEWING
AGENCIES, JR ENGINEERING
APPROVES THEIR USE
ONLY FOR THE PURPOSES
DESIGNATED BY WRITTEN
AUTHORIZATION.

SHEET 13 OF 28
JOB NO. 1570808