

If you would like to address City Council, please place your name on the sign-up sheet located at the back of the City Council Chambers. You will be recognized to speak during the "audience participation" portion of the agenda

AGENDA

City Council Regular Meeting
April 04, 2022 - 7:00 PM

An informational packet containing all agenda material is available for public inspection on our website at www.evanscolorado.gov The agenda is posted on the bulletin board adjacent to the Council Chambers.

OPTIONAL VIRTUAL MEETING PARTICIPATION

Please click on this URL to join virtually: <https://us02web.zoom.us/j/81270152673>
Or join by phone: 1-669-900-9128
Webinar ID: 812 7015 2673

CALL TO ORDER

PLEDGE

ROLL CALL

Mayor: Brian Rudy
Mayor Pro-Tem: Mark Clark
Council: Laura Speer
Alicia Johnson
Fred Neal
Amanda Castle
Tammy Mortenson

PROCLAMATION

1. Americanism Day
2. National Library Week

AUDIENCE PARTICIPATION

The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Depending on the number of speakers on any given topic, your comments may be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!

APPROVAL OF AGENDA

CONSENT AGENDA

The consent agenda is reserved for matters which are considered to be routine and uncontroversial. Any item may be removed from the consent agenda and placed on the regular agenda at the request of the Mayor or a City Council member.

3. Approval of the March 15, 2022 City Council Meeting Minutes

NEW BUSINESS

4. Consideration of Resolution Number 09-2022 to Make Factual Findings Determining Annexation Eligibility for Annexation of Certain Real Property Owned by Hunt Brothers Properties, Inc.
5. Consideration of Ordinance Number 759-22 An Application to Annex Two Parcels of Land into the City of Evans and to Zone Each parcel to Industrial (I-3) for Natural Resources Extraction and Treatment
6. Consideration of Ordinance Number 758-22 An Application to Rezone Parcel 0959-35-000005 from Planned Unit Development to Industrial (I-3) within the City of Evans
7. Consideration of Resolution 08-2022 Granting a Special Use Permit for Additional Outdoor Storage in Excess of 30%
8. Public Hearing: Consideration of Ordinance Number 760-22 Regarding Designation of an Area or Activity of State Interest
 Public Hearing: Consideration of Ordinance Number 761-22 Developing Regulations for Such Area or Activity of State Interest
 Consideration of Resolution Number 11-2022 Entering into an Intergovernmental Agreement with Weld County for the Use of Certain Weld County Staff
9. Public Hearing: Consideration of Ordinance Number 762-22 to Update the 2010 Comprehensive Plan and Adopt the 2021 Community Master Plan
10. Consideration of Resolution Number 13-2022 to Update the 2004 Transportation Master Plan and Adopt the 2021 Multi-Modal Transportation Master Plan
11. Consideration of Property Acquisition for 37th Street Widening Project
12. Consideration of Approval of Change Order for Evans East Side Storm Sewer (ESSS) to Include BT Construction Subsurface Utility Engineering (SUE) Additional Services
13. Consideration of Approval of Ashcroft Draw Sewer and Trail Design Contract

REPORTS

14. City Manager
15. City Attorney

AUDIENCE PARTICIPATION (general comments)

Please review the Audience Participation section listed at the beginning of the agenda for procedures on addressing City Council.

EXECUTIVE SESSION

16. To determine the City's position regarding matters that are subject to negotiation with neighboring municipalities, develop strategies and instruct negotiators in connection with the City's Land Use Master Plan, pursuant to C.R.S. Section 24-6-402(4)(e)

ADJOURNMENT

CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Manager at the City of Evans. Please provide three to five business day’s advance notice so we can adequately meet your needs.

PROCLAMATION

PROCLAIMING APRIL 10, 2022 AS "AMERICANISM DAY" IN THE CITY OF EVANS, COLORADO

WHEREAS, in this time and throughout our history, the American Republic has found strength in its citizens' loyalty to the great national principles and ideals upon which this country was founded; and

WHEREAS, everyday Americans at home and abroad bear witness to their national allegiance by extending deep devotion and sacrifice, some even at the cost of their lives; and

WHEREAS, the continuing threat of terrorism on this great Nation has only helped to unite and strengthen America, making Americans more determined, more generous, and proud to meet the challenges we face in defending our freedom; and

WHEREAS, all loyal citizens should stand up and be proud that we are Americans and should make it clearly known to all that our democracy will long endure; and

WHEREAS, it is fitting that we set aside one day in the year when every citizen may pause to reflect on his debt to the devotion of other Americans, and to bear witness in every appropriate way to his own Americanism.

NOW THEREFORE, I, Brian Rudy, Mayor of the City of Evans do hereby proclaim:

April 10, 2022 as Americanism Day in the City of Evans.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Evans this 4th day of April, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By _____
Brian Rudy, Mayor

PROCLAMATION

National Library Week 2022

WHEREAS, today’s libraries are more about what they can do with and for their communities, and not just about what they have on the shelves;

WHEREAS, libraries have long served as trusted institutions, often the heart of their cities, towns, schools, and academic campuses;

WHEREAS, libraries serve people of all ages, interests and backgrounds providing the resources and space to engage in life-long learning;

WHEREAS, libraries offer equipment and professional staff support to utilize technology, programs and services; often free or with nominal charges to users;

WHEREAS, libraries are a resource for all - regardless of race, ethnicity, creed, ability, sexual orientation, gender identity or socio-economic status;

WHEREAS, we recognize librarians as information professionals who provide expertise, services and guidance for patrons to access credible sources and material, making their own informed decisions about the world today;

WHEREAS, libraries provide access to and display a wide range of information not just a majority opinion or single perspective;

WHEREAS, librarians hold the professional values of diversity, equity and inclusion to meet the needs of all users;

WHEREAS, America is celebrating National Library Week including April 5 as National Library Workers’ Day and the immeasurable contributions made by library workers; April 6 as National Outreach Day showing library services are not limited to their physical location; and April 7 as Take Action for Libraries Day encouraging community support for libraries;

NOW THEREFORE, I, Brian Rudy, Mayor of the City of Evans do hereby proclaim National Library Week, April 3-9, 2022 in the City of Evans. During this week, we encourage all residents to visit our libraries, and explore all that they offer.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Evans this 4th day of April, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By _____
Brian Rudy, Mayor

CITY COUNCIL AGENDA REPORT

DATE: April 4, 2022
SUBJECT: Approval of the March 15, 2022 City Council Meeting Minutes
PRESENTED BY: Julie Kamka, City Clerk

ITEM DESCRIPTION:

Approval of minutes

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

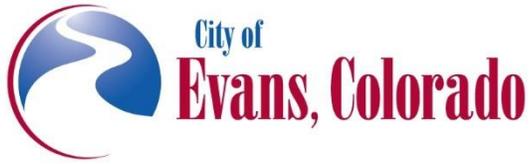
N/A

SUGGESTED MOTIONS:

“I move to approve the minutes as presented”

ATTACHMENTS:

- March 15, 2022 City Council Meeting Minutes



MINUTES

City Council Regular Meeting
March 15, 2022 - 7:00 PM

CALL TO ORDER

Mayor Rudy called the meeting to order at 7:02 p.m.

PLEDGE

ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson
	Fred Neal
	Amanda Castle - ABSENT
	Tammy Mortenson

PROCLAMATION

1. AmeriCorps Week

Mayor Rudy read the Proclamation into the record and proclaimed the week of March 13-19, 2022 as AmeriCorps Week in the City of Evans. Azia Gilbert, NoCo AmeriCorps Project Coordinator, accepted the Proclamation.

AUDIENCE PARTICIPATION

There was no audience participation.

APPROVAL OF AGENDA

Mayor Rudy amended the agenda by adding a second item to the Executive Session.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the agenda as amended. The motion passed with all voting in favor thereof.

CONSENT AGENDA

2. Approval of the March 1, 2022 City Council Meeting Minutes
3. Consideration of Ordinance Number 757-22 approving an Oil and Gas Lease between the City of Evans and PDC Energy, Inc. for City-owned property near 23rd Avenue and 49th Street – 2nd Reading
4. Consideration of Resolution Number 12-2022 Terminating the State of Disaster Emergency Declared by Resolution Number 09-2020

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the consent agenda as presented. The motion passed with all voting in favor thereof.

NEW BUSINESS

5. Consideration of Approval of the Hunters Reserve Plaza I, LLC and Hunters Reserve Plaza II, LLC Development Agreement

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed Development Agreement as detailed in the agenda item staff report. Staff recommends that City Council approve the Development Agreement for the Hunters Reserve Commercial Plaza.

Council Member Neal asked staff if the development will be supplied with non-potable water for irrigation. Anne Best Johnson responded that the development will be supplied with potable water for irrigation as it is cost-prohibitive at this time to provide non-potable water. Council Member Neal asked staff if the 3 EQR's that are being purchased are only for the expensive Greeley-treated water. Anne Best Johnson responded that is correct. Council Member Neal asked staff if it will be a continuing trend to annex properties that do not have water rights since the City only has so many EQR's to sell. Mr. Becklenberg responded that part of this project is to ensure the developer has enough water to serve this site.

Council Member Speer believes that the proposed development is well thought out. Her concern is what can be developed on the land south of the development. Anne Best Johnson responded that the land to the south could be developed as multi-family or commercial property. There is an access road that serves Walgreens and Ziggy's just to the south of those properties that could serve any development to the south as well. Council Member Speer stated that this corner reminds her of one in Brighton where there is a major anchor tenant with outlots containing standalone buildings around it. She wants to ensure that commercial development can expand to the area south of the proposed development.

Council Member Mortensen is extremely excited about this development. She asked staff if the developer is allowed to do zero scaping or water conserving landscaping on the site. Anne Best Johnson responded that rather than using zero scaping, which is just rocks, the

developer will be using drought-tolerant landscaping. The City encourages all developments to use water conserving landscaping.

Council Member Johnson is also excited to see this development which will bring more businesses to that area and make it successful. There is a need for that and she is excited for the potential.

Mayor Pro-Tem Clark thanked the developer for bringing this to Evans and the City looks forward to the development.

Council Member Speer asked about the approval and construction timeline for this project. Anne Best Johnson responded that the site plan has been approved administratively and they are working their way through the permitting process.

Brian Belfiore, representative of the developer, addressed Council. He is glad to hear the positive feedback from Council. He has been in the community for over 20 years. They will be bringing their family business, Knotty Pine Liquors, over to the new development as well as another fast-casual restaurant to the site. As far as timelines go, they will be looking to break ground around the 3rd quarter of this year and have Phase 1 completed 8 to 10 months after that.

Mayor Rudy noted that he knows Mr. Belfiore's brother, but that will have no impact on his decision.

Council Member Neal is thrilled to see this development come into the City.

Mayor Rudy believes this is great-looking project. One of his restaurants is located across from another project by this developer and looks great. He believes they will do a fabulous job. This will be a huge asset to Evans and he is in favor of it.

Council Member Mortenson made the motion, seconded by Council Member Johnson to approve the Development Agreement for the Hunters Reserve Commercial Plaza and authorize the Mayor to sign the Development Agreement. The motion passed with all voting in favor thereof.

6. Public Hearing: Consideration of Resolution Number 07-2022 A Variance Request for Parking and Setback Requirements

Mayor Rudy opened the public hearing at 7:28 p.m.

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed variance request as detailed in the agenda item staff report. This application has followed the variance request procedures and has adhered to the variances that are allowed to be requested. The applicant is

proposing to construct a Dollar General Store on the South side of 33rd Street and East side of 11th Avenue. It is zoned C-3, proposed for retail use. The bufferyard requirement is 20 feet and rear setback is 5 feet. The variance request is for a 10 foot bufferyard setback at the rear lot line, which is half of what is required, but twice the size of the required 5 foot building setback. The bufferyard would be landscaped and the proposed building setback is separated from the east side of the building to the nearest apartment building by 60 feet. The second variance request is to propose 35 parking spaces instead of the required 1 space per 200 gross square feet (53.2 spaces). Staff has found that reducing the parking spaces and bufferyard does not jeopardize the health safety or welfare of any person. Staff finds this is the minimum variance that will make possible the reasonable use of the parcel, the building, or the structure. The Zoning Board of Appeals recommended approval on February 22, 2022.

Council Member Speer asked staff about delivery trucks accessing this site. Anne Best Johnson responded that the delivery trucks will utilize the dock which is located at the northeast corner of the building. The applicant has ensured that both delivery trucks and emergency vehicles will be able to navigate the site.

Council Member Neal does not have a problem with a 10 foot setback along the rear. He asked if non-potable irrigation water will be available at this site. Anne Best Johnson responded that staff is working with the applicant on the development agreement and that will be worked out at that time. Council Member Neal stated that the original developer of the Verge Apartments was going to build a strip mall on this site and would have supplied non-potable water from the apartment complex. Anne Best Johnson responded that all Council is looking at now are the variance requests. Staff is working out the remaining issues in the development agreement, which will be brought to Council in the next 6 to 8 weeks. Council Member Neal addressed the proposed number of parking spaces being requested as well.

Mayor Rudy asked if there was anyone in the audience wishing to speak in favor of the item. There were none.

Mayor Rudy asked if there were anyone in the audience wishing to speak in opposition of the item. There were none.

Mayor Rudy closed the public hearing at 7:47 p.m.

Council Member Neal stated that he understands that the number of required parking spaces are requested to be reduced. He has seen issues with parking at other facilities such as both Kum & Go's.

Mayor Pro-Tem Clark believes that the applicant has met the criteria to allow the variances per the City Code and the Zoning Board of Appeals is supporting approval. Therefore, he does not see any reason to deny the request and he is in favor of granting the variances.

Council Member Speer is concerned about the neighboring properties. However, it appears that there will be a large enough buffer between the two properties with the variance so she is in favor of it. She appreciates the business coming to this location.

Council Member Johnson also appreciates the business coming to this area as it will create jobs for our community.

Mayor Rudy is also in favor of it and believes the business will be a good addition to the City. He believes that the setback of the proposed building to the apartment buildings is far enough back. As far as the number of parking spaces is concerned, he believes that the applicant is aware of how many parking spaces they need.

Council Member Johnson made the motion, seconded by Council Member Neal to approve Resolution Number 07-2022 to allow the variance requests made by Dollar General. The motion passed with all voting in favor thereof.

7. Consideration of Approval of the Land Use Code Update Contract

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed contract as detailed in the agenda item staff report. Staff recommends awarding the Land Use Code Update Project Contract to Gould Evans in an amount not exceed \$240,000 inclusive of a \$15,000 contingency to cover any changes that are required due to unknown conditions or opportunities.

Council Member Speer asked staff for clarification concerning the total amount of grant money awarded to the City for this project. Anne Best Johnson reviewed the total dollar amounts for each grant awarded, plus the City's required match amount for a total of \$240,000.

Mayor Rudy asked staff a procedural question concerning the spending limit of the City Manager. Scott Krob, City Attorney, responded that the City Manager could not sign the contract on his own but if Council approves the City Manager to sign the contract, he can do so.

Council Member Mortenson thanked staff for their work in obtaining the grants and is happy to see that Ayers Associates will still be involved.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to award the Land Use Code Update Project contract to Gould Evans in an amount not to exceed \$240,000 inclusive of a \$15,000 contingency to be used only with City Manager approval and authorize the City Manager to sign the contract. The motion passed with all voting in favor thereof.

8. Consideration of 2022 Concrete Replacement Project Contract

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Mark Oberschmidt, City Engineer.

Mark Oberschmidt provided an overview of the proposed contract as detailed in the agenda item staff report. Mark Oberschmidt noted that there was an error in the packet and the actual contract amount is \$498,626.38. Staff recommends awarding the 2022 Concrete Replacement Project Contract to Naranjo Civil Constructors in the amount of \$498,626.38 with a contingency to cover any changes that are required due to unknown conditions for a not to exceed amount of \$500,000.

Council Member Speer noted that she has seen the work that Naranjo has done with the sidewalks on the east side of town and they have done a fantastic job. She is happy to see the drainage issues addressed around Palomino's on 23rd.

Council Member Neal asked if staff is anticipating a big jump in concrete prices in the near future. Mark Oberschmidt responded that the contractor had agreed to only a 4% increase this year. There is a potential for 10% increases across the board in construction costs this year.

Council Member Mortenson made the motion, seconded by Council Member Johnson to approve the 2022 Concrete Replacement Project contract with Naranjo Civil Constructors in the amount of \$498,626.38 with a ~5% contingency to be used only with City Manager approval for a not to exceed amount of \$500,000. The motion passed with all voting in favor thereof.

9. 1% Road Tax Review for TABOR

Mr. Becklenberg reviewed the item as detailed in the agenda packet and provided an overview of the report as detailed in the agenda item staff report. Staff requests Council acceptance of the attached road tax report.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to accept the attached Road Tax revenue report. The motion passed with all voting in favor thereof.

REPORTS

10. City Manager

Mr. Becklenberg provided Council an update on activities within the Recreation Department. He also reminded Council that the next regular meeting is scheduled for Monday, April 4, 2022.

11. City Attorney

There was no City Attorney report.

AUDIENCE PARTICIPATION (general comments)

There was no audience participation.

EXECUTIVE SESSION

- 12. To determine the City's position regarding matters that are subject to negotiation with neighboring municipalities, develop strategies and instruct negotiators in connection with the City's Land Use Master Plan, pursuant to C.R.S. Section 24-6-402(4)(e)
- 13. To seek legal advice from the City Attorney regarding liability of conduct of officers, pursuant to C.R.S. Section 24-6-402(4)(b)

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to adjourn into Executive Session at 8:09 p.m. to determine the City's position regarding matters that are subject to negotiation with neighboring municipalities, develop strategies and instruct negotiators in connection with the City's Land Use Master Plan and to seek legal advice from the City Attorney regarding liability of conduct of officers, pursuant to C.R.S. Section 24-6-402(4)(b) and (e). The motion passed with all voting in favor thereof.

The meeting reconvened at 8:54 p.m.

Mr. Krob noted for the record that the executive session that Council concluded was within the scope of the statute and that he was present for the duration of the discussion, so the discussion is subject to the attorney client privilege.

ADJOURNMENT

The meeting was adjourned at 8:54 p.m.

City Clerk

CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

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CITY COUNCIL AGENDA REPORT

DATE: April 4, 2022

SUBJECT: Consideration of Resolution Number 09-2022 to Make Factual Findings Determining Annexation Eligibility for Annexation of Certain Real Property Owned by Hunt Brothers Properties, Inc.

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Anne Best Johnson, Community Development Director
Drew Lyman, Assistant City Attorney

ITEM DESCRIPTION:

This Agenda Report accompanies Resolution Number 09-2022 and requests the consideration of City Council to annex two parcels of land into the City of Evans. On January 27, 2022, Hunt Brothers Properties, Inc., filed a Petition of Annexation for two parcels totaling 114.3 +/- acres of real property with the Evans City Clerk. On February 15, 2022, the matter was referred to City Council pursuant to the Evans Municipal Code Section 18.06.030 and set for public hearing on April 4, 2022 through Resolution Number 06-2022.

The purpose of Resolution Number 09-2022 is for City Council to make factual findings regarding the Property's legal eligibility for annexation. Pursuant to the Evans Municipal Code and C.R.S. Section 31-12-108, the purpose of this hearing is to determine whether the proposed annexation complies with section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105 or such provisions thereof as may be required to establish eligibility under C.R.S. Section 31-12-108(1). The two parcels to be annexed are vacant and do not have an address however, the parcel numbers are parcels 0959-36-300040 and 0959-36-300042.

Staff has reviewed the submissions by the petitioner and concluded that the City's code and the State's statutory requirements have been satisfied, including: one sixth of the of the property boundary is contiguous to the City's boundary; the area is urban or will be urbanized in the near future; the area is integrated with or is capable of being integrated with the City; no land held in identical ownership will be divided into separate parts; the property is greater than 20 acres in size; no annexation proceedings have been commenced by another municipality; annexation of the property will not result in detachment of the property from any school district; and annexing the property will not result in extending the City's boundaries by more than three miles.

Following consideration and adoption of this Resolution, City Council will consider the Ordinance to annex and zone the property under the process provided by Evans Municipal Code Section 18.06.030. The Ordinance to annex the property is the same Ordinance that would zone the property to Industrial, I-3 with certain restrictions. There are multiple land use applications that are being processed concurrently associated with the request of Asphalt Specialties and Hunt

Brothers Properties to operate a gravel mine and asphalt batch plant in the Industrial I-3 zone district. Each of these processes is outlined below.

- Resolution Number 09-2022 (Annexation Petition Acceptance) and Ordinance Number 759-22 (Annexation and Change of Zone) for the annexation and concurrent zoning of two parcels of land into the City of Evans.
- Ordinance Number 758-22 for a zoning change from PUD to I-3 for property located within the City of Evans.
- Administrative Site Plan for Natural Resources Extraction and Treatment in the I-3 Zone District.

The proposed use of the Property is considered urban development according to the Cooperative Planning Agreement (CPA) between the City of Evans and Weld County. Urban development is any land use matter requiring a public hearing for approval according to the CPA. Under the Evans-Weld CPA, any proposal for urban development is encouraged to occur in the City of Evans.

The Property is designated as open space on the City's 2022 Three Mile Plan. The applicant seeks approval to annex two parcels that are currently in unincorporated Weld County into the City and zone these parcels Industrial, I-3. The intended use of the properties is for Natural Resources Extraction and Treatment [gravel mining, materials storage and processing, and an asphalt batch plant]. Industrial, I-3 is the only zone district in Evans that contemplates natural resource extraction and processing, unless the property is contained in a Planned Unit Development and designated for mining. The reclamation plan calls for the end use to be pasture and open space which is consistent with the City's 2022 Three Mile Plan and the property's location in both the floodway and floodplain.

The applicant is agreeable to the rezoning to Industrial, I-3 with the only permitted use of *Natural Resources Extraction and Treatment*. When the floodway portion of these two parcels is released from the State Division of Reclamation, Mining and Safety's reclamation bond and obligations, the two parcels will be zoned to Agriculture. City staff will change the Official Zoning Map automatically from I-3 to Agriculture at that time. When the floodplain portion of these two parcels is released from the State Division of Reclamation, Mining and Safety's reclamation bond and obligations, the City and the property owner shall determine the most compatible zoning district. The property owner will be responsible to change the zone through a public hearing process.

The Change of Zone application associated with the Annexation Petition allows, but does not officially approve the contemplated *Natural Resources Extraction and Treatment* land use. This particular land use is a use approved through the administrative Site Plan process. Site Plans are processed administratively but resulting Development Agreements are approved by City Council.

The applicant has requested Annexation and concurrent zoning. Zoning property that has a reserve of natural resources to Industrial, I-3 will allow gravel mining and processing. This zoning is appropriate for the property as commercial mineral reserves have been found on site. The north front range of Colorado continues to grow. Roads, bridges, trails, sidewalks, parks, schools and other buildings need to be constructed and repaired. Having a source of construction materials near growth makes logical sense and may contribute to keeping development related costs lower than hauling materials from other communities.

Colorado Revised Statutes Section 34-1-305 illustrates the State’s recognition of the importance of preserving reserves of commercial mineral deposits for extraction. This statute states that there shall be no prohibitive land uses permitted on properties that would interfere with the present or future extraction of the commercial mineral deposits. Extracting the mineral reserve in a floodplain and floodway area with the knowledge that this property will be reclaimed and reverted to agricultural/pasture use supports not only the commercial demand for construction materials but also State Statute for extraction of mineral deposits.

FINANCIAL SUMMARY:

There is no financial responsibility of the City other than staff’s time involved to process the application.

RECOMMENDATION:

Staff recommends that City Council adopt proposed Resolution Number 09-2022 determining that the property is eligible to be annexed to the City.

SUGGESTED MOTIONS:

“I move to approve Resolution Number 09-2022 as proposed.”

“I move to deny Resolution Number 09-2022 as proposed for the reasons stated.”

ATTACHMENTS:

- Resolution Number 09-2022
- Project Description
- Annexation Map
- Annexation Petition
- Economic Impact Report

CITY OF EVANS, COLORADO

RESOLUTION NO. 09-2022

A RESOLUTION OF THE EVANS CITY COUNCIL MAKING FINDINGS OF FACT AND CONCLUSIONS RELATIVE TO THE ELIGIBILITY FOR ANNEXATION TO THE CITY OF CERTAIN LANDS IN CONNECTION WITH THE HUNT BROTHERS PROPERTIES, INC. PETITION FOR ANNEXATION

WHEREAS, pursuant to the laws of the State of Colorado, a public hearing is scheduled for April 4, 2022 and April 19, 2022, as required by law, on the Petition for Annexation filed with the City of Evans, Colorado, for the properties described on the attached Exhibit A; and

WHEREAS, the City Clerk has published notice of public notice of such public hearing as required by C.R.S. Section 31-12-108(2); and

WHEREAS, the City Council has completed a public hearing to determine if the proposed annexation complies with Article II, Section 30 of the Colorado Constitution and C.R.S. Sections 31-12-104 and 105, to establish eligibility for annexation; and

WHEREAS, pursuant to C.R.S. Section 31-12-110 the City Council of the City of Evans, Colorado, is required to set forth its findings of fact and its conclusions as to the eligibility of the property described on the attached Exhibit A for annexation to the City of Evans, Colorado.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:

That the City Council hereby sets forth its findings of fact and conclusions based on the public hearing with respect to the annexation of the property described on Exhibit A, attached hereto, and incorporated herein by reference:

FINDINGS OF FACT

1. Not less than one-sixth of the perimeter of the area proposed to be annexed as described on the attached Exhibit A is contiguous with the existing boundaries of the City of Evans, Colorado as required by law.

2. A community of interest exists between the area proposed to be annexed as described on the attached Exhibit A and the City of Evans, Colorado and the area proposed to be annexed is urban or will be urbanized in the near future.
3. The area proposed to be annexed as described on the attached Exhibit A is integrated or is capable of being integrated with the City of Evans, Colorado.
4. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts of real estate, is divided into separate tracts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels are separated by a dedicated street, road or other public way.
5. No land 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 comprising twenty (20) acres or more which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the year next preceding the annexation, has been included without the written consent of the landowners.
6. No annexation proceedings have been commenced for the annexation to another municipality of part or all that territory proposed to be annexed as described on the attached Exhibit A.
7. The proposed annexation of the real estate described on the attached Exhibit A will not result in the detachment of area from any school district and the attachment of the same to another school district.
8. The petition for annexation of the real estate described on the attached Exhibit A meets the requirements of law and is in proper order for annexation for the property proposed to be annexed as described on the attached Exhibit A.
9. The proposed annexation will not have the effect of extending a municipal boundary more than three (3) miles in any direction from any point of the City boundary in any one year, or to the extent the proposed annexation extends beyond such three (3) mile limit, confining the annexation to such three (3) mile limit would have the effect of dividing a parcel of property held in identical ownership and at least fifty (50%) percent of the said property is within the three (3) mile limit.
10. The entire width of any public street or alley to be annexed is included within the

proposed annexation.

- 11. The proposed annexation would not result in denial of reasonable access to landowners, owners of easements, or owners of franchises to use the City’s public ways.
- 12. The petition was signed by owners of 100% of the property to be annexed exclusive of streets and alleys.

CONCLUSIONS

- A. The property described in the attached Exhibit A is eligible for annexation to the City of Evans, Colorado and all requirements of law have been met to make such property eligible for annexation, including the requirements of C.R.S. Sections 31-12-104 and 31-12-105, as amended.
- B. No election is required pursuant to C.R.S. Section 31-12-107(2) or any other law of the State of Colorado.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4TH DAY OF APRIL, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

EXHIBIT A**Legal Descriptions:****PARCEL I:**

LOT B, RECORDED EXEMPTION NO. 0959-36-03 RECX17-0197, RECORDED JANUARY 17, 2018 AT RECEPTION NO. 4368408, LOCATED IN THE W 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, EXCEPT THOSE PARCELS DEEDED JUNE 18, 2018 AT RECEPTION NO. 4407999 AND NOVEMBER 9, 2018 AT RECEPTION NO. 4445526 AND JANUARY 29, 2020 AT RECEPTION NO. 4562229.

PARCEL II:

LOT B, AMENDED RECORDED EXEMPTION NO. 0959-36-03 1AMRECX18-85-803, RECORDED SEPTEMBER 18, 2019 AT RECEPTION NO. 4524591, LOCATED IN THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO EXCEPT THOSE PARCELS DEEDED NOVEMBER 9, 2018 AT RECEPTION NO. 4445526 AND JANUARY 29, 2020 AT RECEPTION NO. 4562229.

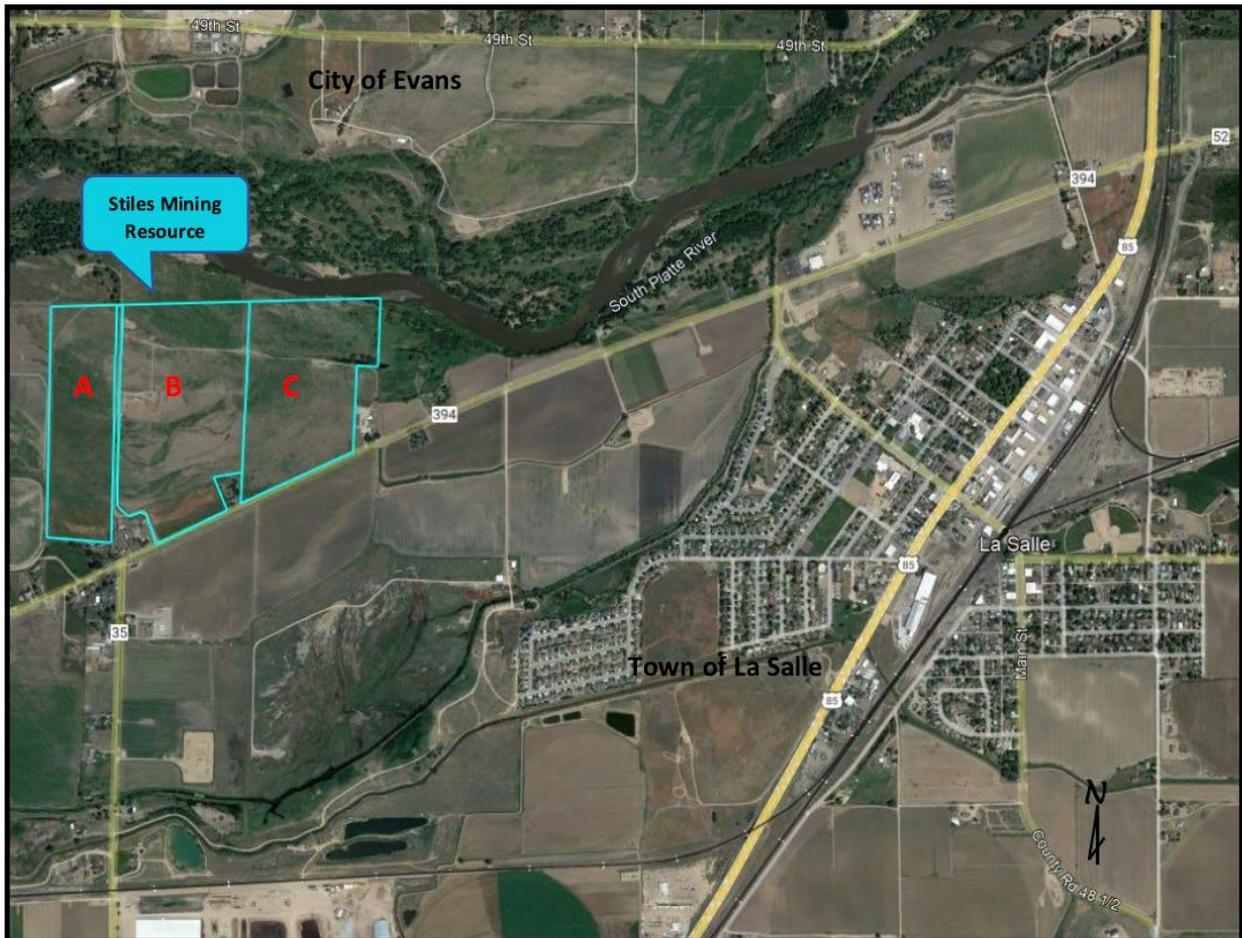
**Asphalt Specialties Co., Inc.
Asphalt Plant and Aggregate Mine
In the Vicinity of WCR 35 and WCR 394**

The Stiles Pit

Narrative Description

**Annexation
Change in Zoning from PUD or Agricultural to I-3
Special Use Permit
Asphalt Plant and related aggregate activities
Including concrete and asphalt crushing and recycling
Stacking and Storage of Material**

February 17, 2022



Aerial Picture of the Stiles Pit site

Steve Ward
 Land Development Manager
 Asphalt Specialties Co., Inc.
 303-594-1433

**Asphalt Plant and Aggregate Mine
 East and West side of planned WCR 35 and WCR 394**

The Stiles Pit

**Narrative Description for
 Annexation
 Change in Zoning from PUD to I-3
 Special Use Permit
 Asphalt Plant and related aggregate activities
 Including concrete and asphalt crushing and recycling
 Stacking and Storage of Material**

Asphalt Specialties Co., Inc. has purchased approximately 148 acres in three parcels along the north side of WCR 394. Parcel A is the western most parcel and is located along the west side of the planned WCR 35 extension north from WCR 394. Parcels B and C are east of the planned WCR extension. Parcel A is located in the City of Evans and is currently zoned PUD. Parcels B and C are currently in unincorporated Weld County. All three parcels were purchased from Fred Stiles earlier this year. This project is being referred to for planning purposes as the Stiles Pit.

Asphalt Specialties will be applying to the City of Evans for the following land use and related approvals for the Stiles Pit:

- Annexation of Parcels B and C into the City of Evans;
- Change in Zoning of Parcel A from PUD to I-3 to allow for altering or storing a natural resource, which use would include an asphalt plant and related aggregate mining and processing activities;
- Zoning of Parcels B and C to I-3 to allow for altering or storing a natural resource, which use would include an asphalt plant and related aggregate mining and processing activities;
- Special Use Permit for all three parcels to facilitate stacking of aggregates and storage of aggregate material on an area greater than 30% of the site.
- Aggregate activities on site will include concrete and asphalt crushing and recycling

Land Use Application

Parcel A is currently zoned for PUD, though no development plan has been submitted to the City of Evans for the site.

We plan to apply to the City of Evans for a series of land use entitlements as follows:

Relocating Asphalt Plant

For approximately 9-10 months each year, Asphalt Specialties will operate an asphalt plant on Parcel A at the Stiles Pit. The plant will be one relocated from its existing location near I-25 in the City of Firestone. Aggregate activities relating to the asphalt operations will include concrete and asphalt crushing and recycling.

It is anticipated that the asphalt plant and related aggregate activities will generate maximum daily round-trip truck traffic of 58 trips per day.

Employment

The asphalt plant will typically employ 3 full-time employees from April through November. The aggregate mining activities will typically employ 5 full-time employees continuously throughout the year.

Hours of Operation

Generally, the hours of operation for the asphalt plant will be the hours of daylight, Monday through Saturday, during the normal paving season from April through November.

The hours of operation for sand and gravel operations will be the hours of daylight, Monday through Saturday, throughout the year.

Exceptions to these hours are made for normal holidays. In addition, equipment service personnel may be on-site on Sundays and after daylight hours to conduct maintenance and repairs.

Lot Surface

The vast majority of the site will be mined. Approximately 7 acres along the southern edge of the site will be used for the asphalt plant and related aggregate stacking. Aggregate stockpiles are typically limited to 25' in height. The asphalt plant and associated equipment will be placed on concrete pads. The internal access and circulation roads will be dirt, gravel, or recycled asphalt. No significant structures are anticipated to be built at the Stiles Pit other than the asphalt plant itself.

Stormwater and Utilities

Stormwater will either infiltrate into the ground or be directed into our pit. No stormwater discharge will be discharged from the site.

Drinking water for employees will be bottled. No on-site wastewater treatment system is planned for the site given the mining activities that will be taking place. Bathroom facilities for employees will be of a temporary design, with wastewater vaulted and removed by a licensed contractor.

Water requirements for asphalt production and aggregate mining are expected to be limited. Water for these purposes will be leased for the duration of the asphalt and mining operations on the site.

Atmos Energy provides utility services in the area and has indicated they can serve the Stiles Pit site.

Access From WCR 394

Ingress and egress to and from the site is proposed for WCR 394 and WCR 35. The majority of truck traffic at the site is expected to enter from east-bound WCR 394 and exit either west-bound on WCR 394 or southbound on WCR 35. Trucks will consist of a mix of approximately 50% aggregate hauling tractor-trailers, and 50% asphalt trucks.

Surrounding Properties

The site is located in an agricultural area of Weld County. The initial activity at the Stiles Pit will take place on Parcel A. It is anticipated that within 8-10 years, aggregate mining at the Stiles Pit will be expanded to the east across the WCR 35 ROW on Parcels B and C. Other aggregate mining operations currently exist in the general area of the proposed Stiles Pit. Other trucking operations are also common.



Looking West from the WCR 35 ROW.



Looking East from the WCR 35 ROW.



Looking North along the WCR 35 ROW. The initial Stiles Pit site is to the left.



Looking South along the
WCR 35 ROW. The initial
Stiles Pit site is to the
...

Access From WCR 394 – AP21-00767

Asphalt Specialties Co., Inc. has applied for an Access Permit from Weld County. This permit application is currently in process. The County has provided a draft Improvements & Road Maintenance Agreement. We are currently negotiating certain requested changes in the draft agreement.

Neighborhood Meeting

A neighborhood meeting for the proposed annexation, re-zoning and special use permit was held via Zoom on October 4, 2021 at 5:00 pm.

Notices were mailed more than ten days ahead of the scheduled meeting to all property owners and residents identified in a data set provided by Weld County County.

The mailed notice provided a unique email address to which inquiries could be sent ahead of the neighborhood meeting. No email messages were received prior to the neighborhood meeting.

The meeting started promptly at 5:00 pm.

Steve Ward, Land Development Manager for Asphalt Specialties Co., Inc., the applicant started the meeting.

At least four people joined the meeting.

Albert Bush expressed concern about the increase in traffic on WCR 394. He also inquired as to whether we proposed to do asphalt and concrete recycling. We answered that we did intend to conduct aggregate recycling operations as part of the project.

Heidi Romero, 17509 CR 34, representing her father who owns a home adjoining the project, asked about setbacks, aggregate stacking heights and timing for construction of the asphalt plant.

Brian Johnson, an adjoining homeowner, was concerned about traffic and asked if the speed limit on WCR 394 could be lowered.

There was a general consensus that a traffic light at the intersection of WCR 394 and Hwy 85 would be helpful.

No one else joined the meeting. There was a technical problem with Zoom and the meeting was cut off at 5:38 pm. The meeting was re-joined a few minutes later but only a few of the initial participants were still on line. The meeting then adjourned.

Access From WCR 394 – AP21-00767

Asphalt Specialties Co., Inc. has applied for an Access Permit from Weld County. This permit application is currently in process. The County has provided a draft Improvements & Road Maintenance Agreement. We are currently negotiating certain requested changes in the draft agreement.

HUNT BROTHERS PROPERTIES ANNEXATION TO THE CITY OF EVANS

Part of the Southwest 1/4 of Section 36,
Township 5 North, Range 66 West of the 6th P.M.,
City of Evans, County of Weld, State of Colorado

Sheet 1 of 1

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36 TO BEAR NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

BEGINNING AT THE CENTER 1/4 CORNER OF SAID SECTION 36, ALSO BEING THE EAST LINE OF LOT B, 1AMREC18-85-803, AS SHOWN ON THE PLAT RECORDED SEPTEMBER 18, 2019 AS RECEPTION NO. 4524591 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; THENCE SOUTH 00°47'44" EAST, COINCIDENT WITH THE EAST LINE OF SAID LOT B A DISTANCE OF 721.84 FEET TO THE NORTHEAST CORNER OF LOT A, OF SAID 1AMREC18-85-803; THENCE NORTH 11°44'31" WEST, COINCIDENT WITH THE NORTH LINE OF SAID LOT A, A DISTANCE OF 197.98 FEET TO THE NORTHWEST CORNER OF SAID LOT A; THENCE SOUTH 02°17'09" WEST, COINCIDENT WITH THE WEST LINE OF SAID LOT A, A DISTANCE OF 870.91 FEET TO THE SOUTHWEST CORNER OF SAID LOT A AND THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD 394; THENCE SOUTH 64°46'49" WEST, COINCIDENT WITH THE NORTH LINE OF SAID LOT B, AND THE NORTH RIGHT-OF-WAY LINE OF SAID COUNTY ROAD 394, A DISTANCE OF 1288.51 FEET TO THE SOUTHWEST CORNER OF SAID LOT B; THENCE NORTH 00°28'56" EAST, COINCIDENT WITH THE WEST LINE OF SAID LOT B, A DISTANCE OF 324.35 FEET TO THE NORTH LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED JANUARY 29, 2020 AS RECEPTION NO. 4562229 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; THENCE SOUTH 61°11'33" WEST, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 272.90 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 26°44'39" EAST, COINCIDENT WITH THE WEST LINE OF SAID PARCEL, A DISTANCE OF 2.08 FEET TO THE NORTH LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED JUNE 18, 2018 AS RECEPTION NO. 4407999 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; THENCE SOUTH 81°52'09" WEST, COINCIDENT WITH THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 18.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 26°08'24" EAST, COINCIDENT WITH THE WEST LINE OF SAID PARCEL, A DISTANCE OF 390.69 FEET TO THE SOUTH LINE OF LOT B, REC17-0197, AS SHOWN ON THE PLAT RECORDED JANUARY 17, 2018 AS RECEPTION NO. 4368408 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD 394; THENCE SOUTH 64°50'21" WEST, COINCIDENT WITH THE SOUTH LINE OF SAID LOT B AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 805.34 FEET TO THE SOUTHWEST CORNER OF LOT A, OF SAID REC17-0197; THENCE COINCIDENT WITH THE EAST AND NORTH LINES OF SAID LOT A, THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

- 1) NORTH 24°23'12" WEST, A DISTANCE OF 311.13 FEET;
- 2) THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 59.34 FEET AND A CENTRAL ANGLE OF 67°42'44", WHOSE CHORD BEARS NORTH 67°15'25" WEST, A DISTANCE OF 66.12 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 70.13 FEET;
- 3) SOUTH 73°52'52" WEST, A DISTANCE OF 109.42 FEET;
- 4) SOUTH 77°07'49" WEST, A DISTANCE OF 31.94 FEET TO THE EAST RIGHT-OF-WAY LINE OF 35TH AVENUE AND THE EXISTING MUNICIPAL LIMITS OF THE CITY OF EVANS, AS SHOWN ON ANNEXATION PLAT RECORDED JUNE 20, 2006 AS RECEPTION NO. 3397579 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 1650.00 FEET AND A CENTRAL ANGLE OF 03°23'10", WHOSE CHORD BEARS NORTH 06°58'13" WEST, A DISTANCE OF 97.50 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 97.51 FEET; THENCE NORTH 12°23'53" WEST, COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 164.32 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1550.00 FEET AND A CENTRAL ANGLE OF 11°54'21", WHOSE CHORD BEARS NORTH 06°28'43" WEST, A DISTANCE OF 321.51 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 322.09 FEET; THENCE NORTH 01°45'53" EAST, COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1610.93 FEET TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36; THENCE NORTH 88°28'08" EAST, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 1268.98 FEET TO THE CENTER-WEST 1/16 CORNER OF SAID SECTION 36; THENCE NORTH 88°28'08" EAST, COINCIDENT WITH THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36, A DISTANCE OF 1318.33 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 4,984,063 SQUARE FEET OR 114.42 ACRES, MORE OR LESS.

OWNER'S CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS, THAT HUNT BROTHERS PROPERTIES, BEING THE SOLE OWNERS AND PROPRIETORS OF THAT PARCEL OF LAND DESCRIBED HEREON, EXCLUDING PUBLIC RIGHTS-OF-WAY, REQUEST THAT THE LAND DESCRIBED HEREON BE ANNEXED UNDER THE NAME OF HUNT BROTHERS PROPERTIES ANNEXATION TO THE CITY OF EVANS

DAN HUNT - PRESIDENT

STATE OF COLORADO }
COUNTY OF _____ } SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20____

BY: DAN HUNT AS PRESIDENT OF HUNT BROTHERS PROPERTIES

WITNESS MY HAND AND OFFICIAL SEAL.

(SEAL) _____
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CITY OF EVANS APPROVAL:

THIS IS TO CERTIFY THAT HUNT BROTHERS PROPERTIES ANNEXATION TO THE CITY OF EVANS WAS APPROVED ON THE _____ DAY OF _____, 20____ BY ORDINANCE NO. _____ AND THAT THE MAYOR OF THE CITY OF EVANS, ON BEHALF OF THE CITY OF EVANS, HEREBY ACKNOWLEDGES SAID ANNEXATIONS UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR _____

ATTEST: TOWN CLERK _____

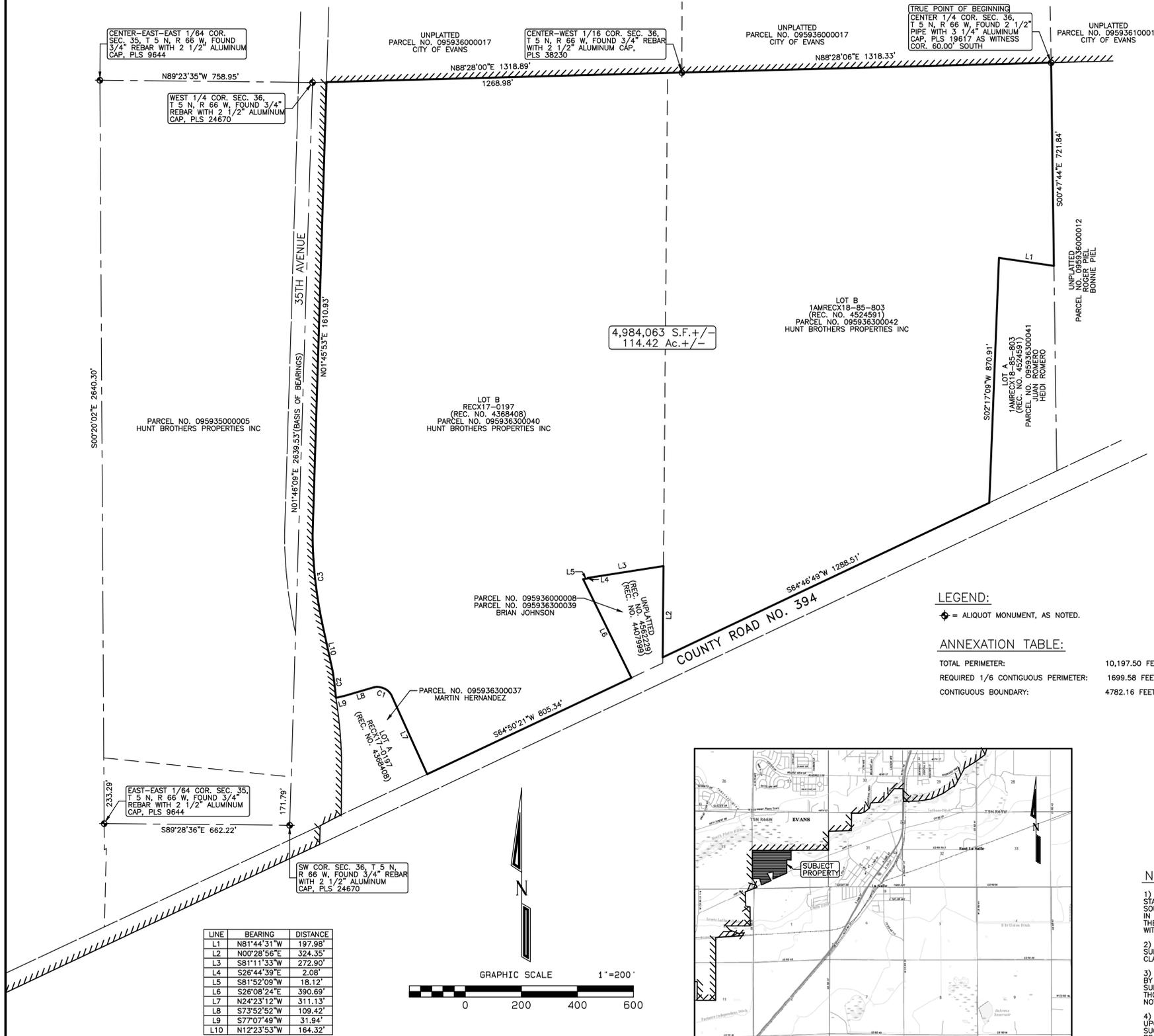
SURVEYOR'S STATEMENT:

I, CURTIS D. HOOS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE BY ME OR UNDER MY SUPERVISION, AND THIS PLAT ACCURATELY REPRESENTS SAID SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY ME TO DETERMINE OWNERSHIP. FURTHERMORE THIS CERTIFIES THAT AT LEAST ONE-SIXTH (1/6) OF THE PROPERTY SHOWN HEREON IS CONTIGUOUS WITH THE BOUNDARY OF THE TOWN OF KEENESBURG.

CURTIS D. HOOS PLS 37971
FOR AND ON BEHALF OF:
AMERICAN WEST LAND SURVEYING CO.
A COLORADO CORPORATION

NOTES:

- 1) BASIS OF BEARING: ALL BEARINGS SHOWN HEREON ARE BASED UPON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE (0501) WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., IN WELD COUNTY, COLORADO BEARING NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, WITH ALL BEARINGS SHOWN HEREON RELATIVE THERETO.
- 2) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-6-508, C.R.S.
- 3) CERTIFICATION DEFINED: THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR, IN THE PRACTICE OF HIS PROFESSION OF SURVEYING, CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OF FINDINGS WHICH ARE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.
- 4) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTIONS BASED UPON A 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.
- 5) DISTANCES ON THIS DRAWING ARE EXPRESSED IN U.S. SURVEY FEET AND DECIMALS THEREOF. A U.S. SURVEY FOOT IS DEFINED AS EXACTLY 1200/3937 METERS.
- 6) PROPERTY BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON ALTA/NSPS LAND TITLE SURVEY CONDUCTED BY AMERICAN WEST LAND SURVEYING CO. DATED JUNE 22, 2020.

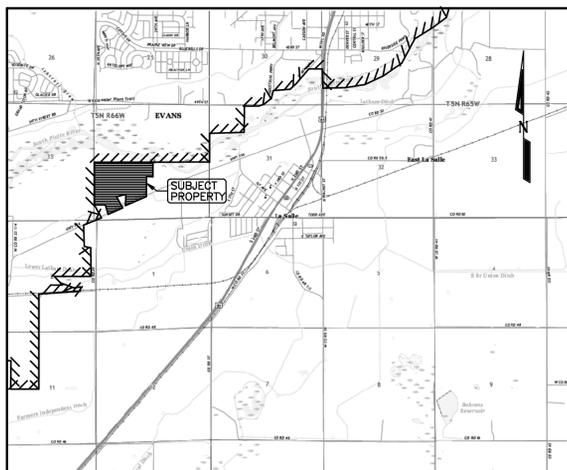


LEGEND:

◆ = ALIQUOT MONUMENT, AS NOTED.

ANNEXATION TABLE:

TOTAL PERIMETER:	10,197.50 FEET
REQUIRED 1/6 CONTIGUOUS PERIMETER:	1699.58 FEET
CONTIGUOUS BOUNDARY:	4782.16 FEET



VICINITY MAP: 1" = 4000'



LINE	RADIUS	ARC	DELTA	CHORD BEARING	CHORD
C1	59.34'	70.13'	67°42'44"	N67°15'25"W	66.12'
C2	1650.00'	97.51'	03°23'10"	N06°58'13"W	97.50'
C3	1550.00'	322.09'	11°54'21"	N06°26'43"W	321.51'

American West Land Surveying Co.
A Colorado Corporation
PO Box 129, Brighton, CO 80601 * P:303-659-1532 F:303-655-0575 * amwestlls.com
SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: NOV. 22, 2021
REVISIONS:
JOB NO: 21-

PETITION FOR ANNEXATION

The undersigned, in accordance with Article 12, Title 31, CRS, as amended, hereby petition for City Council of the City of Evans, Colorado, for annexation to the City of Evans the unincorporated territory more particularly described below, to be known as (insert name of annexation) Asphalt Specialties-Asphalt Plant and Aggregate Mine and in support of said Petition, petitioners allege that:

1. It is desirable and necessary that the following described territory be annexed to the City of Evans (attach legal description as Exhibit "A");
2. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Evans, Colorado;
3. A community of interest exists between the territory proposed to be annexed and the City of Evans, Colorado;
4. The territory proposed to be annexed is urban or will be urbanized in the near future;
5. The territory proposed to be annexed is integrated or is capable of being integrated with the City of Evans, Colorado;
6. The signatures of the Petition comprise one hundred percent (100%) of the landowners of the territory to be included in the area proposed to be annexed and said landowners attesting to the facts and agreeing to the conditions herein contained will negate the necessity of any annexation election;
7. No land held in identical ownership, whether consisting of one tract to parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - a) Is divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels are separated by a separate dedicated street, road or other public way;
 - b) Comprising twenty (20) acres or more and which, together with the buildings and improvements situated thereon has an assesses value in excess of Two Hundred Thousand Dollars (\$200,000) for ad valorem tax purposes for the year proceeding the annexation, is included within the territory proposed to be annexed without the written consent of the landowner or landowners.
8. No part of the area proposed to be annexed is more than three miles from a point on the municipal boundary, as such was established more than one year before this annexation will take place.
9. The area proposed to be annexed comprises (Check One):

More than 10 acres and the Board of County Commissioners of Weld County has agreed to waive the requirement of an impact report as provided for in section 31-12-108.5, C.R.S., as amended.

More than 10 acres and an impact report as provided for in section 31-12-108.5, C.R.S., as amended, is required.

10 acres or fewer and an impact report as provided for in section 31-12-108.5, C.R.S., as amended, is not required.
10. The area proposed to be annexed is located within Weld County, and the following special districts:

Water Districts Municipal Subdistrict- Northern Colorado Water District

Sanitation District Evans Sanitary Sewer System

Fire District Evans Fire Protection District

School District School District RE-1 Gilcrest

Recreation District City of Evans

Library District High Plains Library

Ambulance District UC Health
Jr. College District AIMS Community College
Other _____

11. The mailing address of each signer, the legal description of the land owned by each signed and the date of signing of each signature are all shown on this Petition;
12. Accompany this Petition are four (4) prints of the annexation map 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 of the area proposed to be annexed;
 - c) Within the annexation boundary map there is shown the location of each ownership tract in unplatted land, and if part or all of the area is to be platted, then the boundaries and the plat number of plots or of lots and blocks are shown;
 - d) Next to the boundary of the area proposed to be annexed is drawn the contiguous boundary of the City of Evans, and the contiguous boundary of any other municipality abutting the area proposed to be annexed;
 - e) The dimensions of the contiguous boundaries are shown on the map.
13. The territory to be annexed is not presently a part of any incorporated city, city and county, or town;
14. The undersigned agree to the following, which shall be covenants running with the land, and which shall, at the option of the City, appear on the annexation map;
15. Petitioner represents that:
 - a) Water rights shall be provided pursuant to City Ordinance;
 - b) The owners shall participate in providing drainage plans and improvement and payment of a unit drainage fee as may be required by the City for the area;
 - c) The undersigned hereby waives any and all "vested rights" previously created pursuant to Section 24-68-103, CRS, as amended;

 No part of the property to be annexed is included within any site-specific development plan approved by Weld County, Colorado; OR

 A site-specific development plan has been approved by Weld County, Colorado, which has created a vested right.
 - d) The undersigned and the City may enter into a Pre-Annexation Agreement prior to the effective date of this annexation, which agreement shall be additional conditions as effectively as if set forth in this Petition; and
16. The petitioner understands he/she will be responsible for costs incurred by the City of Evans such as, but not limited to, advertising and recording fees, attorney fees, and other professional costs incurred by the city.

(No Further Information on this Page)

ASPHALT SPECIALTIES COMPANY, Inc.

Economic Impact of Facility in Weld County, Colorado

March 2022

BUSINESS RESEARCH DIVISION
Leeds School of Business
University of Colorado Boulder
420 UCB
Boulder, CO 80309-0420
[Colorado.edu/business/brd](https://colorado.edu/business/brd)

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PROJECT OVERVIEW

The Business Research Division conducted a study of the economic impact of a new asphalt operation on the City of Evans. The Colorado-based, vertically integrated company extracts aggregate, sand, and gravel; produces asphalt; and provides residential and commercial asphalt paving services. The company has an operation in Firestone, Colorado that is near the end of life, and is seeking a new operation in the City of Evans in Weld County, Colorado. The estimates of economic impact derive from unaudited sales, employment, and wage projections from Asphalt Specialties Company, Inc. This study estimates the total economic impact stemming from company operations, supply chain purchases, and employee consumption.

The purpose of this study is to provide third-party research to Asphalt Specialties Company, Inc. and its stakeholders, including governments, residents, and businesses, about the economic contributions of the operations in Weld County.

While relocating the plan to Evans will increase direct economic activity in Evans, the facility may have many of the same suppliers and employees as the current facility in Firestone. The study does not examine the *net* effects of relocating the plant within Weld County. Likewise, the study does not examine the public revenue (e.g., taxes and fees) nor the public costs (e.g., roads and environment) of the operation.

METHODOLOGY

This study was conducted in cooperation with Asphalt Specialties Company, Inc. The company provided unaudited, proforma data on steady-state operations, including aggregate and asphalt sales, employee counts, employee compensation, proprietor income, and contracting income. According to the company, if the Firestone operation is shut down, Evans would be the source of the company's aggregate and asphalt for contracting activity along the Front Range.

The company estimated \$6 million in annual aggregate and asphalt sales, \$15 million in contracting income, 36 employees working pit and transportation operations, and \$1.4 million in annual employee wages and benefits.

Data were modeled by industry in the 546-sector IMPLAN input-output model. Asphalt Specialties Company, Inc. did not provide a list of suppliers or a typical spending profile for the company—this activity was derived from the model. This model quantified the economic impacts of company operations on Weld County.¹ Input-output (I-O) economic analysis quantifies economic activity derived from elements of production, such as labor and intermediate inputs. It includes estimates of the indirect and induced activity based on industry supply chains and regional trade flows. The direct impact describes the impact from Asphalt Specialties Company's sales, employment, and wages. The indirect impact describes the economic activity derived from the company's purchases of goods and services from other companies (i.e., supply chain), and the induced impact describes the economic activity derived from spending associated with employee earnings—people spend their earnings on goods and services in the community (e.g., mortgage, rent, utilities, entertainment, food, clothing, etc.). The

¹ The model was built using a combined region including Weld and Adams counties to capture industry spending patterns of asphalt economic data existing in Adams County.

relationship between direct industry activity and the indirect/induced activity is distilled in industry multipliers.

Multipliers refer to the interindustry relationships within a study area in terms of input-output (I-O) economic impacts.² Multipliers are useful for analyzing project decisions to understand the incremental impacts that such activities have on the local economy. IMPLAN multipliers are static and thus do not consider large-scale disruptive impacts on the economic fabric without calculating specific infrastructure changes.

Two IMPLAN sectors were used to represent company activity: sector 29 (sand and gravel mining) and sector 155 (Asphalt paving mixture and block manufacturing). These correspond to two North American Industry Classification System industries: NAICS 212321 (Construction Sand and Gravel Mining), 324121 (Asphalt Paving Mixture and Block Manufacturing).³ Downstream asphalt paving operations would be modeled in sector 62 (maintenance and repair construction of highways, streets, bridges, and tunnels), which corresponds to NAICS 237310 (Highway, Street, and Bridge Construction).

DEFINITIONS

Gross Domestic Product (GDP): A measure of economic activity, GDP is the total value added by resident producers of final goods and services.

Gross Output (Output): The total value of production is gross output. Unlike GDP, gross output includes intermediate goods and services.

Value Added: The contribution of an industry or region to total GDP, value added equals gross output, net of intermediate input costs.

Labor Income: Total compensation of employees (wages and benefits) and sole proprietors (profits).
Employment: Full-time and part-time workers.

Direct Impact: Initial economic activity (e.g., sales, expenditures, employment, production, etc.) by a company or industry.

Indirect Impact: The upstream (backward) economic activity impacted by purchases of goods and services from other companies.

Induced Impact: Economic activity derived from workers spending their earnings on goods and services in the economy.

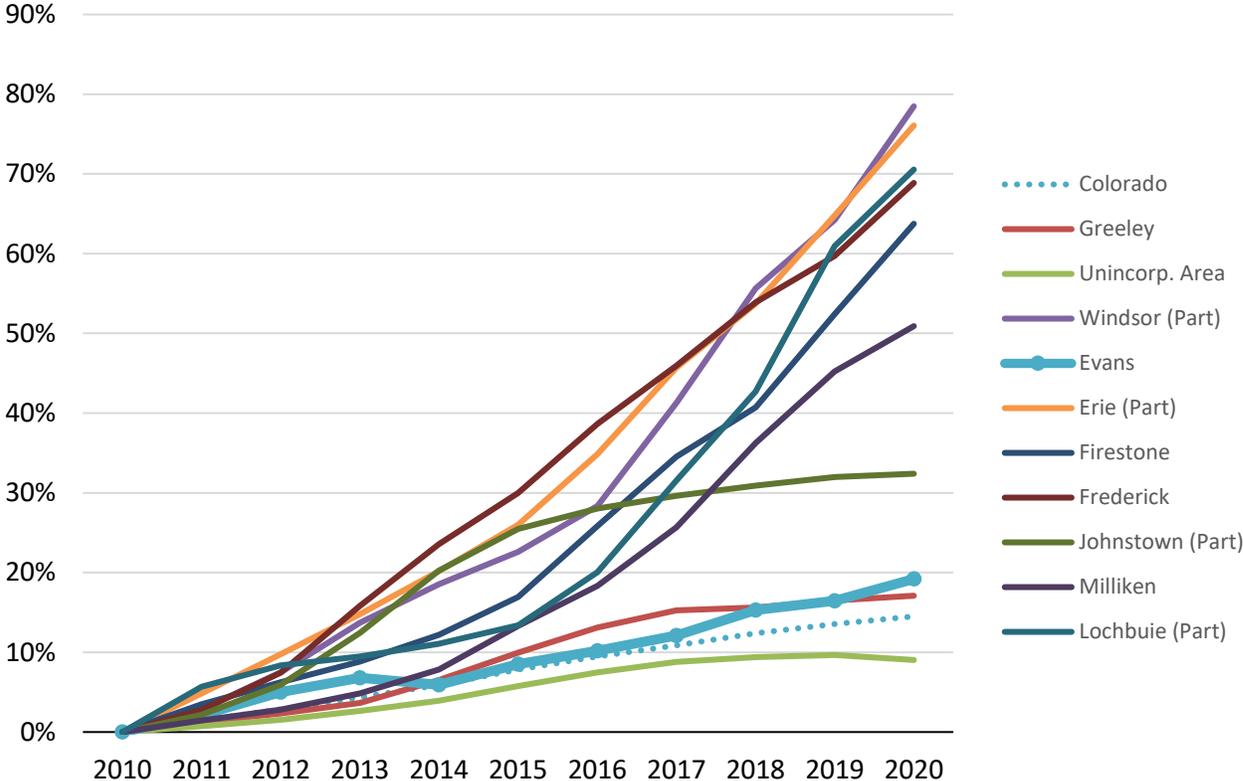
² Bureau of Economic Analysis, Regional Multipliers, <https://www.bea.gov/news/blog/2019-09-03/bea-updates-regional-economic-impact-tool>, retrieved March 1, 2022.

³ U.S. Census Bureau, North American Industry Classification System. <https://www.census.gov/naics/?99967>, retrieved March 1, 2022.

ECONOMIC OVERVIEW

The City of Evans is located along the Front Range in Weld County, Colorado. Weld County’s population was 331,184 in 2020 – the eighth-largest county in the state by population, representing 5.7% of the state total, according to the Colorado State Demography Office. The population in Evans grew 2.4% in 2020 year-over year to total 22,204, ranking it the third-largest municipality in the county behind Greeley and Windsor. The population of Evans grew at a 10-year compound annual growth rate (CAGR) of 1.8% from 2010 to 2020, slightly higher than that of Weld County (1.6%) and the state (1.4%).

FIGURE 1: WELD COUNTY 2010-2020 POPULATION GROWTH BY TOP 10 LARGEST MUNICIPALITIES



Source: Colorado State Demography Office.

Employment in Weld County averaged 107,080 in 2020, ranking it as the 9th-largest county in Colorado by employment, according to the Colorado Department of Labor and Employment. Employment in the county fell 6.4% in 2020 year-over-year compared to a 4.8% decline statewide. For the 12-months ending in September 2021, employment in Weld County averaged 105,995 covered wage and salary jobs. The unemployment rate in Weld County stood at 4.2% in December 2021, on par with the rate of the state. The county’s unemployment rate has fallen significantly from the 10.9% observed in June 2020 due to the pandemic-induced recession but is still elevated from levels pre-pandemic (2-3%).

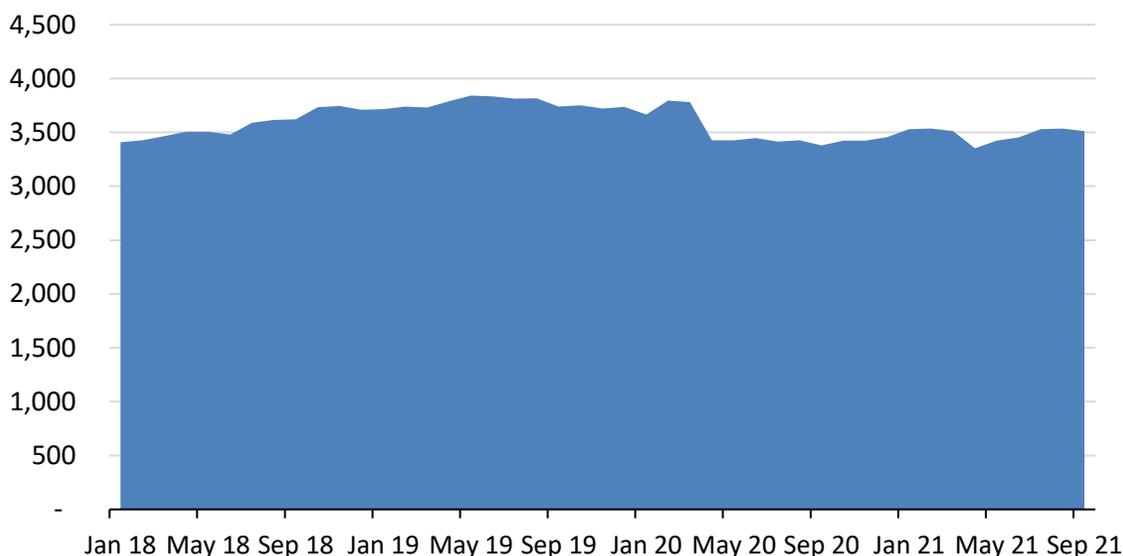
The largest employment industries in Weld County are Government (14%), Manufacturing (12%), Construction (10.7%), Retail Trade (10%), and Health Care & Social Assistance (9%).

FIGURE 2: WELD COUNTY ESTABLISHMENTS AND EMPLOYMENT BY INDUSTRY, Q3 2021

Industry	Establishments	% of Establishments	Average Employment	% of Employment
Agriculture, Forestry, Fishing, Hunting	4,415	4.1%	4,369	4.1%
Mining	4,666	4.4%	4,695	4.4%
Utilities	449	0.4%	452	0.4%
Construction	11,600	10.8%	11,500	10.7%
Manufacturing	12,969	12.1%	12,933	12.0%
Wholesale Trade	4,289	4.0%	4,261	4.0%
Retail Trade	10,850	10.1%	10,786	10.0%
Transportation & Warehousing	3,646	3.4%	3,714	3.4%
Information	537	0.5%	544	0.5%
Finance & Insurance	2,812	2.6%	2,805	2.6%
Real Estate, Rental & Leasing	1,341	1.3%	1,338	1.2%
Professional & Technical Services	3,532	3.3%	3,557	3.3%
Management Of Companies & Enterprises	1,831	1.7%	1,801	1.7%
Administrative & Waste Services	5,963	5.6%	6,002	5.6%
Educational Services	707	0.7%	738	0.7%
Health Care & Social Assistance	9,590	8.9%	9,692	9.0%
Arts, Entertainment & Recreation	1,051	1.0%	1,190	1.1%
Accommodation & Food Services	8,823	8.2%	8,850	8.2%
Other Services	2,841	2.7%	2,814	2.6%
Non-classifiable	10	0.0%	13	0.0%
Government	15,231	14.2%	15,630	14.5%
Total All Industries	107,153	100%	107,684	100%

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Employment in Evans totaled an estimated 3,506 in 2020, representing an estimated 3.3% of Weld County employment, according to data from the Colorado Department of Labor and Employment. The largest industry in Evans is Health Care and Social Assistance (20%), followed by Mining (18%), and Retail Trade (12%). Employment in Evans dipped around 9% in April 2020 due to the pandemic-induced recession and has yet to recover all of the jobs lost. Employment in September 2021 was down an estimated 4.1% from January 2020.

FIGURE 3: CITY OF EVANS, COLORADO EMPLOYMENT, JANUARY 2018 – SEPTEMBER 2021

Source: Colorado Department of Labor and Employment.

Over the four quarters ending Q3 2021, total wages in Weld County summed to \$6 billion. Average annual pay in Weld County in 2020 was \$56,265, 18.5% lower than the statewide average of \$66,649 and ranking 12th out of the 64 counties in Colorado. Average annual wages in the county increased 3.6% in 2020 year-over-year (lower than the 7.8% increase statewide) and have observed a 10-year CAGR of 3.7% from 2010 to 2020 (higher than the 3.4% increase statewide). The Utilities industry paid the highest average annual wages in Weld County with annual wages of \$106,498, followed by Mining (\$104,662), and Professional, Scientific, and Technical Services (\$77,459).

FIGURE 4: WELD COUNTY AVERAGE ANNUAL WAGES BY INDUSTRY, 2020

Industry	Average Annual Wages
Agriculture, forestry, fishing and hunting	\$48,285
Mining	\$104,622
Construction	\$66,251
Manufacturing	\$58,587
Utilities	\$106,498
Wholesale Trade	\$72,661
Retail Trade	\$35,785
Transportation and Warehousing	\$62,425
Information	\$76,570
Finance and Insurance	\$71,085
Real Estate Rental and Leasing	\$55,697
Professional, Scientific, and Technical Services	\$77,459
Administrative Support and Waste Management and Remediation Services	\$43,392
Educational Services	\$29,334
Health Care and Social Assistance	\$51,365
Arts, Entertainment, and Recreation	\$26,653
Accommodation and Food Services	\$20,120
Other Services	\$42,062
ALL	\$56,265

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Real GDP in Weld County declined 11.5% in 2020 year-over-year, compared to the statewide decline of 3%, according to the Bureau of Economic Analysis. The large decline in real GDP was led by a 32.4% decline in Mining, quarrying, and oil and gas extraction. Mining, quarrying, and oil and gas extraction is the county's largest industry representing 39.2% of real GDP, followed by Finance, insurance, real estate, rental, and leasing (10.9%), and Manufacturing (7%).

FIGURE 5: WELD COUNTY REAL GDP BY INDUSTRY, 2020



Source: Bureau of Economic Analysis.

ECONOMIC IMPACT

The economic contribution from Asphalt Specialties Company extraction and asphalt manufacturing projected operations on the Weld County total \$8.8 million in 2022 dollars. Most of the impact derives from direct operations—an estimated \$6 million in sales, \$1.4 million in employee compensation, and 36 full-time and part-time employees.

TABLE 1: ASPHALT SPECIALTIES COMPANY, TOTAL ECONOMIC CONTRIBUTION ON WELD COUNTY

Impact	Employment	Employee Compensation (\$M)	Value Added (\$M)	Output (\$M)
Direct	36	1.4	3.2	6.0
Indirect	5	0.4	0.9	1.9
Induced	6	0.2	0.5	0.8
Total	47	2.0	4.6	8.8

BIBLIOGRAPHY

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Bureau of Economic Analysis, BEA Updates Regional Economic Impact Tool.
<https://www.bea.gov/news/blog/2019-09-03/bea-updates-regional-economic-impact-tool>,
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Bureau of Labor Statistics, Quarterly Census of Employment and Wages.
<https://www.colmigateway.com/vosnet/lmi/default.aspx>, accessed March 2, 2022.

Colorado Demography Office. Colorado Population Estimates by County, 2010-2020.
<https://demography.dola.colorado.gov/>. Accessed March 2, 2022.

IMPLAN® model, 2019 Data, using inputs provided by the user and IMPLAN Group LLC, IMPLAN System
(data and software), 16905 Northcross Dr., Suite 120, Huntersville, NC 28078
www.IMPLAN.com.

The applicant is requesting an Industrial, I-3 zoning classification for the properties. A Change of Zone to I-3 is needed to operate a gravel mine and an asphalt batch plant with appurtenant activities such as materials storage, crushing and recycling which are defined in the City Municipal Code as *Natural Resources Extraction and Treatment*. This is the only zone district in the City of Evans to allow *Natural Resources Extraction and Treatment* unless such use is specified in a Planned Unit Development. Future zoning of the properties is discussed in the Conditions of Approval and Development Standards. Future zoning shall be compatible with the Future Land Use Map.

The Change of Zone application does not grant the applicant approval of the contemplated *Natural Resources Extraction and Treatment* land use. This particular land use application is a use officially approved through the Site Plan Review process. Site Plans are processed administratively and the resulting Development Agreement will be presented to City Council.

Title 18.06.030 of the Land Use Code provides the intent for processing annexation and zoning concurrently. This Title states, “In all proceedings for the annexation of territory to the City, the Council shall require concurrent zoning of the same, and no territory shall be annexed unless zoning is established immediately thereafter. Further, Section 18.08.030.C.2 states, “The Planning Commission shall not accept for review any zoning proposal or applications for real property located outside of the City boundaries until the City Council has determined that annexation petitions describing the property substantially comply with the requirements of Subsection 31-12-107(1)(1), C.R.S., or the City Council has tabled any action on the annexation petitions for a period of time not to exceed 180 days.” City Council accepted the annexation petition as substantially compliant on February 15, 2022.

Title 18.06.040.B of the Evans Municipal Code identifies the application requirements for a Change of Zone. Application requirements were met by the applicant. Title 18.06.040.C provides a clear outline of the procedures to be followed when processing an application for a Change of Zone. Staff followed these procedures and included internal Design/Development Review Team meetings and a review of referral agency responses. Staff followed the review criteria as well as the publication, posting and notification criteria found in Sections 18.10.10 and 18.10.20. Staff adhered to these requirements as noted below:

- The land use hearings were first published in the Greeley Tribune on March 2, 2022 and will be published for four weeks leading up to the April 4, 2022 hearing before City Council.
- Notice was sent to all property owners within a 500’ radius of the project on February 18, 2022. Notice was sent via Certified and First Class mail in accordance with the City Code Sections 18.10.010 and 18.10.020.
- Three signs were posted along Weld County Road 394 on February 17, 2022.

Title 18.06.030.D provides a clear outline of nine Criteria to be met for the Planning Commission and City Council to approve an application request for a Change of Zone. These Criteria are listed below along with narrative detailing how staff and Planning Commission have found each criterion is, or can be met with the attached Conditions of Approval.

1. That a need exists for the proposal

The applicant has requested Annexation and concurrent zoning. Zoning property that has a reserve of natural resources to Industrial, I-3 will allow gravel mining and processing. This zoning is appropriate for the property as commercial mineral reserves have been found on site. The north front range of Colorado continues to grow. Roads, bridges, trails, sidewalks, parks, schools and

other buildings need to be constructed and repaired. Having a source of construction materials near growth makes logical sense and may contribute to keeping development related costs lower than hauling materials from other communities.

Colorado Revised Statutes Section 34-1-305 illustrates the State's recognition of the importance of preserving reserves of commercial mineral deposits for extraction. This statute states that there shall be no prohibitive land uses permitted on properties that would interfere with the present or future extraction of the commercial mineral deposits. Extracting the mineral reserve in a floodplain and floodway area with the knowledge this will be reverted to agricultural/pasture land supports not only the commercial demand for construction materials but also State Statute for extraction of mineral deposits.

2. The particular parcel is indeed the correct site for the proposed development

The project site is in the floodway and floodplain. Mineral resources such as sand and gravel are located along river areas which are in the floodway and floodplain. The proposed zoning classification of Industrial, I-3 will allow the applicant to extract and process the resource. While Planning Commission and City Council are not considering a land use or development with this particular application, the zoning classification matches the desired end land use.

3. There has been an error in the original zoning OR

4. There have been significant changes in the area to warrant a change of zone

The property is not in the City of Evans at this time so there is no error in the original zoning. There have not been significant changes to the area which would warrant a change of zone. The Three-Mile Plan adopted on February 15, 2022 identifies these parcels as appropriate for future open space as it is located in the floodplain and floodway. Mineral extraction is largely found in the floodplain and floodway areas on the eastern Colorado plains. While this proposal zones the property to Industrial, I-3, future land uses will be limited due to the floodway and floodplain designations. The reclamation plan filed with the State Division of Reclamation and Mining Safety suggests the property will be used for pasture after mining is completed. To mine the property and process mined materials on site requires a change of zone.

5. Adequate circulation exists and traffic movement would not be impeded by development

The applicants have provided a Traffic Impact Study which has been reviewed by City Staff, Weld County, the Town of LaSalle and CDOT. A future Development Agreement with the City of Evans, the Town of LaSalle and Weld County will address long-term maintenance and improvements of the roads serving these properties. These requirements will be reflected in the Development Agreement to be presented to City Council in the future. The referral response from Weld County is included with this Agenda memo.

6. Additional municipal service costs will not be incurred which the City cannot meet

Required services as applicable due to the proposed site-specific development plan shall be addressed with the Site Plan review.

7. There are minimal environmental impacts or impacts can be mitigated

The act of changing the zone of these parcels does not create environmental impacts. Future site-specific plans such as a Site Plan review will be required to discuss how proposed development may impact the environment and include any mitigation measures. The Colorado Department of Wildlife has reviewed the plans. The referral is attached to this Agenda Report. Other State

agencies are reviewing the Colorado Division of Reclamation, Mining and Safety (DRMS) Permit application and the State of Colorado will not issue this permit until all review has been completed and there are no concerns. The applicant is not able to mine this site until the State DRMS Permit has been issued.

8. The proposal is consistent with the Evans Comprehensive Plan maps, goals and policies

The Three-Mile Plan adopted on February 15, 2022 identifies these parcels as appropriate for future open space as they are located in the floodplain and floodway. Mineral extraction is largely found in the floodplain and floodway areas on the eastern Colorado plains. While this proposal zones the property to Industrial, I-3, future land uses will be limited due to the floodway and floodplain designations. The reclamation plan filed with the State DRMS suggests the property will be used for pasture after mining is completed. To mine the property and process mined materials on site requires a change of zone.

9. There is adequate waste and sewage disposal, water, schools, parks and recreation, and other services to the proportional degree necessary due to the impacts created by the proposed land uses.

The Development Agreement associated with the Site Plan will address timing and triggering events which may necessitate public improvements. The intended land use does not negatively impact services, schools, parks and recreation. The resulting land use may benefit the City by providing an easement for future trail access.

The applicant shall address the following Conditions of Approval. Once finally approved, the applicant shall submit the signed, stamped, and sealed Change of Zone map package to the City electronically for recording. Staff's Conditions of Approval and Development Standards are listed below.

- a) A maximum of three (3) months will be granted to the applicant to address the Conditions of Approval. Any project that is inactive for more than three (3) months from the date of the City Council meeting shall result in applications becoming permanently inactive, and the applicant shall forfeit their fees.
- b) All resubmittal materials shall be subject to the following fees as adopted in the City Fee Schedule when applicable. This information is provided for your planning purposes with resubmittals.
 1. For every submittal after the 3rd round of review, 50% of the original (total) filing [application] fee shall be required by the applicant.
 2. Should a resubmittal require an extensive review by staff after the first submittal, then a \$200 Post-Review DRT Meeting fee shall be required by the applicant.
- c) The following Development Standards shall be placed on the Site Plan as notes under the heading of "Development Standards."
 1. Approval of this plan may create a vested property right pursuant to Article 68 of Title 24 C.R.S., as amended.
 2. The plans reviewed by the City and subsequently recorded with Weld County Clerk and Recorder constitute the extent of the land use approval. Any changes may necessitate an amendment to the land use permit.
 3. All land use activities occurring on the property are required to have a site-specific development plan such as a Site Plan or a Special Use Permit. Any uses outside of approved Site Plans or Special Use Permits are not allowed.

-
4. The only Industrial, I-3 use permitted is for Natural Resources Extraction and Treatment as defined in the current Land Use Code. This includes gravel mining, materials stockpiling and storage, crushing and screening, and an asphalt batch plant.
 5. The zoning for the portions of the property that are in the floodway shall automatically revert from I-3 to Agricultural when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if these two parcels are ready for release prior to release on adjoining properties. The City shall change the Official Zoning Map automatically from I-3 to Agriculture at that time.
 6. The zoning for the portions of the property outside the floodway but in the floodplain shall revert from I-3 to a zone district compatible with the City's future land use map when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if these two parcels are ready for release prior to release on adjoining properties. The applicant shall request a Change of Zone application at that time.
 7. The application reviewed by the City and subsequently recorded with Weld County Clerk and Recorder constitute the extent of the approval for a change of zone.
- d) The Change of Zone map shall be provided to the City Community Development Department for approval along with all items needed to satisfy the Conditions of Approval. Upon approval, the applicant shall return the final Change of Zone maps to the City electronically with necessary signatures and stamps.
-

FINANCIAL SUMMARY:

There is no financial implication of approving the Change of Zone request.

RECOMMENDATION:

Planning Commission heard the request at its March 22, 2022 public hearing and recommended approval as represented in the Staff Report with Development Standards and Conditions of Approval.

SUGGESTED MOTIONS:

"I move to approve Ordinance Number 759-22 as presented to Annex the two properties and the Change of Zone request with the proposed Conditions of Approval and Development Standards."

"I move to deny Ordinance Number 759-22 as presented to Annex the two properties and the Change of Zone request due to the reasons stated."

ATTACHMENTS:

- Ordinance Number 759-22
- Annexation Agreement
- Draft Minutes from the March 22, 2022 Planning Commission public hearing
- Economic Impact Report
- Referral responses

CITY OF EVANS, COLORADO

ORDINANCE NO. 759-22

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY IN CONNECTION WITH THE HUNT BROTHERS PROPERTIES, INC. PETITION FOR ANNEXATION AND ZONING SUCH LANDS

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, Hunt Brothers Properties, Inc., a Colorado Corporation (“the Petitioner”) filed with the City Clerk a Petition for Annexation dated January 27, 2022 requesting that the properties described on Exhibit A, attached hereto (“the Property”), be annexed to the City of Evans, Colorado; and

WHEREAS, the City Council, reviewed the Petition at its meeting on February 15, 2022 and adopted Resolution No. 06-2022, setting the matter for public hearing on April 4, 2022 to determine whether the Property was eligible for annexation; and

WHEREAS, the City Council finds that the Property is eligible for annexation and that Resolution No. 09-2022 should be adopted; and

WHEREAS, pursuant to the provisions of the Evans City Code, including but not limited to Sections 18.06.030 and 18.06.040, the matter was referred to the Planning Commission to obtain a recommendation as to the appropriate zoning of the Property if it is annexed to the City; and

WHEREAS, the criteria to be considered by the Planning Commission and the City Council in zoning property, as set forth in Section 18.06.040.D of the Evans City Code are:

1. A need exists for the proposed uses,
2. The parcel of ground is indeed the correct site for the proposed development,
3. There has been an error in the assigned zoning, or
4. There have been significant changes in the area to warrant a zone change,
5. Adequate circulation exists and traffic movement would not be impeded by the development,
6. Additional municipal service costs will not be incurred which the City is not prepared to meet,
7. There are minimal environmental impacts or impacts can be mitigated,
8. The proposal is consistent with the Evans Comprehensive Plan, maps, goals

and polices, and

9. There is adequate waste and sewage disposal, water, schools, parks and recreation, and other services to the proportional degree necessary due to the impacts created by the proposed land use.

WHEREAS, at its meeting on March 22, 2022, the Planning Commission considered the appropriate zoning of the Property; and

WHEREAS, based on the criteria set forth above, the materials included in the Application, the matters presented to the Commission by the Petitioner, and the comments of staff and the public, the Commission adopted staff recommendations that the Property be zoned to Industrial, I-3 for only Natural Resources Extraction and Treatment as defined in the current land use code. This includes gravel mining, materials stockpiling and storage, crushing and screening and an asphalt batch plant; and

WHEREAS, The zoning for the portions of the property that are in the floodway shall automatically revert from I-3 to Agricultural when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if these two parcels are ready for release prior to release on adjoining properties. The City shall change the Official Zoning Map automatically from I-3 to Agriculture at that time; and

WHEREAS, The zoning for the portions of the property outside the floodway shall revert from I-3 to a zone district compatible with the City's future land use map when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if these two parcels are ready for release prior to release on adjoining properties. The applicant shall request a Change of Zone application at that time; and

WHEREAS, following proper notice, the matter was presented to the City Council at its regular meeting on April 4, 2022; and

WHEREAS, based on the matters presented to it, including the Application, comments from staff and the public, and all applicable criteria and requirements, the City Council concludes that it is in the best interest of the City to annex the Property to the City of Evans; and

WHEREAS, based on the recommendation of the Planning Commission, as well as the Application, comments from staff and the public, and applying the criteria set forth above, the Council concludes that, the Property should be zoned Industrial, I-3 for only Natural Resources Extraction and Treatment as defined in the current land use code. This includes gravel mining, materials stockpiling and storage, crushing and screening and an asphalt batch plant.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:

1. The Property described in Exhibit A, attached hereto and incorporated by reference herein, shall be and hereby is annexed to, incorporated in, and made a part of the City of Evans, Colorado.
2. The annexation of the Property to the City of Evans shall be complete and effective on the effective date of this ordinance, except for purposes of General Property Taxes, and shall be effective as to General Property Taxes on and after the first day of January 2022.
3. The Property shall be zoned Industrial, I-3 for only Natural Resources Extraction and Treatment as defined in the current land use code. This includes gravel mining, materials stockpiling and storage, crushing and screening and an asphalt batch plant. The zoning map for the City of Evans shall be amended to reflect such zoning.
4. The City Clerk is hereby directed to record this Ordinance and the Staff Report found in Exhibit B, attached hereto, with the Weld County Clerk and Recorder.
5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

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INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL 2022.

ATTEST: CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

BY: _____
Brian Rudy, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 19 DAY OF APRIL, 2022.

ATTEST: CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

BY: _____
Brian Rudy, Mayor

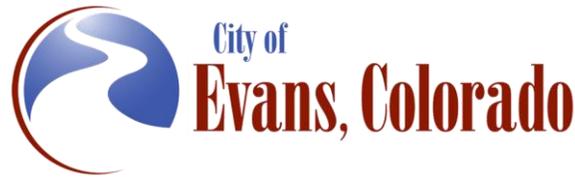
EXHIBIT A: LEGAL DESCRIPTIONS**PARCEL I:**

LOT B, RECORDED EXEMPTION NO. 0959-36-03 RECX17-0197, RECORDED JANUARY 17, 2018 AT RECEPTION NO. 4368408, LOCATED IN THE W 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, EXCEPT THOSE PARCELS DEEDED JUNE 18, 2018 AT RECEPTION NO. 4407999 AND NOVEMBER 9, 2018 AT RECEPTION NO. 4445526 AND JANUARY 29, 2020 AT RECEPTION NO. 4562229.

PARCEL II:

LOT B, AMENDED RECORDED EXEMPTION NO. 0959-36-03 1AMRECX18-85-803, RECORDED SEPTEMBER 18, 2019 AT RECEPTION NO. 4524591, LOCATED IN THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO EXCEPT THOSE PARCELS DEEDED NOVEMBER 9, 2018 AT RECEPTION NO. 4445526 AND JANUARY 29, 2020 AT RECEPTION NO. 4562229.

EXHIBIT B: STAFF AGENDA REPORT



**ANNEXATION AGREEMENT
HUNT BROTHERS PROPERTIES, INC.**

THIS AGREEMENT is made and entered into this _____ day of April, 2022, by and between **Hunt Brothers Properties, Inc., a Colorado corporation, hereinafter referred to as "Owner", and the City of Evans, a municipal corporation of the State of Colorado, hereinafter referred to as "Evans" or "City."**

WITNESSETH

WHEREAS, Owner desires to annex to Evans the property more particularly described on Exhibit A, which is attached hereto, incorporated herein, and made a part hereof (hereafter referred to as "the Property"); and

WHEREAS, Owner has executed a petition to annex the Property, dated January 7, 2022 and submitted to the City on January 27, 2022, a copy of which is on file with the City Clerk; and

WHEREAS, Owner has prepared a Project Narrative, an Annexation Map, a Zoning Map, a Site Plan and a Reclamation Plan identifying and illustrating requested zoning, proposed land use and intended development of the Property more particularly described on Exhibit B, which is attached hereto, incorporated herein and made a part hereof; and

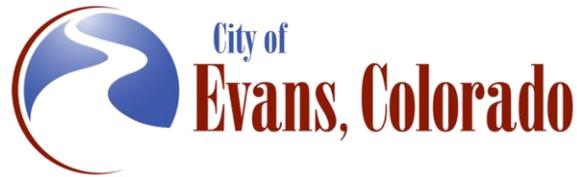
WHEREAS, it is to the mutual benefit of the parties hereto to enter into the following Agreement regarding annexation of the Property to the City and other matters as set forth herein; and

WHEREAS, Owner acknowledges that upon annexation, the Property will be subject to all ordinances, resolutions, and other regulations of the City of Evans, as they may be amended from time to time; and

WHEREAS, Owner acknowledges the need for conveyances and dedication of certain property, including but not limited to property for rights-of-ways and easements, to Evans as contemplated in this Agreement, which are directly related to and generated by development intended to occur within the Property.

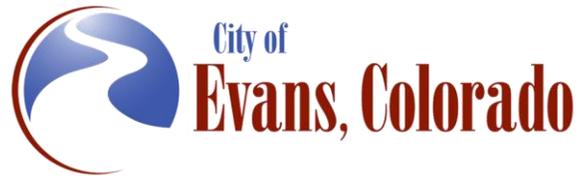
NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS AS HEREINAFTER SET FORTH, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Confirmation of Recitals. The parties confirm and incorporate the foregoing recitals into this Agreement.
2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the City. Except as expressly provided for herein to the contrary, all terms and conditions herein are in addition to all requirements concerning annexation contained in the Evans Municipal Code, Development Regulations and Comprehensive Plan, and the Municipal Annexation Act of 1965, as amended, C.R.S. §31-12-101 et seq.
3. Further Acts. Owner agrees to execute promptly upon request of Evans any and all surveys and other documents necessary to effect the annexation of the Property and the other provisions of this Agreement. Owner agrees not to sign any other petition for annexation of the Property or any petition



for annexation election relating to the Property, except upon request of Evans, unless and until Evans makes a final determination not to annex the Property.

4. Annexation Documents. Owner agrees to provide legal documents, surveys, engineering work, newspaper publications, maps and reports determined by Evans to be necessary to accomplish the annexation.
5. Public Use Land Dedication. As set forth in this Paragraph 5, Owner agrees to dedicate, as specified below by Special Warranty Deed or other appropriate instrument of conveyance acceptable to the City, or, at the request of the City, all of Owner's right, title and interest (subject to exceptions of record permitted by the City), in and to the applicable Property a portion of the territory to be annexed for public open space or other public purposes as directed by the City, in addition to easements and rights-of-way for streets and other public ways and of other public purposes, all as required by City ordinances and resolutions in effect at the time of the dedication. Owner shall have no obligation to dedicate any land for development of public improvements for the following: public school, sewer/water treatment facilities or related facility, power generation plant, library, police station or fire station.
 - A. A Trail easement that is thirty (30) feet in width shall be dedicated to the City for public access without further payment by the City as part of the consideration for the City agreeing to annex the Property. The location of this Trail easement shall be determined by the City in cooperation with the property owner and may run parallel with the South Platte River and one or both of the western and eastern property lines. A temporary construction easement in excess of the permanent thirty feet trail easement shall be provided during the construction of the trail. The dedication shall occur once the State Division of Reclamation, Mining and Safety has approved the reclamation plan proposed for the State Permit process and the City has determined the proposed location. The City shall prepare the necessary easement documents and any necessary land division application materials. The Owner, without delay, shall execute all necessary documents for the land transfer.
 - B. A Trail head shall be dedicated to the City for public access to the trail mentioned in the paragraph above. The size and location of the trail head shall be determined in the future. Access from Weld County 394 shall be provided. The Owner shall grade, apply road base or other parking surface material, and provide this trail head to the City without further payment by the City as part of the consideration for the City agreeing to annex the Property. The dedication shall occur once the State Division of Reclamation, Mining and Safety has approved the reclamation plan proposed for the State Permit process and the City has determined the proposed location. The City shall prepare the necessary land donation documents and any necessary land division application materials. The Owner, without delay, shall execute all necessary documents for the land transfer.
 - C. The Owner may consider dedicating all or some of those portions of the parcels in the floodway to the City for public access and use as either regional open space or park land without further payment by the City. Any such dedication shall occur once the State Division of Reclamation, Mining and Safety has approved the reclamation plan proposed for the State Permit process and the City has determined the proposed location. In the event of any such dedication, the City shall prepare the land division application and deed. The Owner, without delay, shall execute all necessary documents for the land transfer.
6. The portion of the future right-of-way for 35th Avenue may be considered by the City to be mined and reclaimed for future road construction. An agreement inclusive of reclamation standards for the right-of-way shall be agreed upon prior to any mining activities in the right-of-way.



7. **Water and Wastewater Utilities.** On-site and required off-site water and wastewater mains are not anticipated for the proposed use. Should the property develop beyond what is defined in Section 13 below, the off-site water and wastewater mains and appurtenances shall be constructed to City standards by Owner at Owner's expense. Owner may be eligible to seek reimbursement from other users of such mains and appurtenances for oversizing of any additional mains in accordance with Chapter 13.28 of the City Code. The water and sewer mains to be oversized shall be set forth in the Public Improvement Development Agreement.

8. **Water Rights Dedication.** There are no water rights required for dedication to the City for the development proposed as described in Section 13 below. The water associated with the property shall be conveyed to the City at no cost to the City after the land use described in Section 13 below has been completed. Owner shall dedicate water rights as required by Title 13.08 of the Evans Municipal Code.

9. **Municipal Services.** Evans agrees to make available to the Property all of the usual municipal services provided by the City, in accordance with the ordinances and policies of the City. The services provided by the City include, but are not limited to, police protection, water, wastewater, and storm water services. Owner acknowledges that City services do not include, as of the date of the execution of this Agreement, emergency medical services.

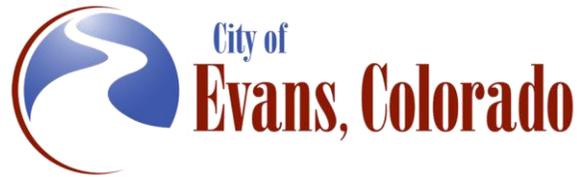
10. **Public Improvements.** Required public improvements shall be designed and constructed to City standards by Owner at Owner's expense as outlined in the Development Agreement associated with the Site Plan to allow the land uses described in Section 13 below. Owner further agrees to provide financial guarantees for construction of all required improvements as set forth in each phase of the development, and to dedicate to the City any or all of the improvements as required by City ordinances. The public improvements and financial guarantee shall be set forth in the Development Agreement between the City and Owner.

11. **Streets and Arterial Roads.** The right-of-way for the future expansion of 35th Avenue shall be preserved as reflected on the Annexation Map.

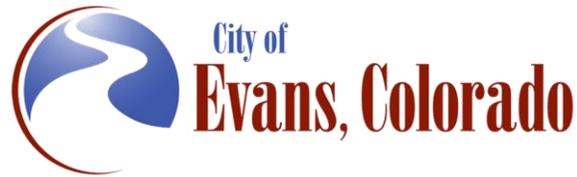
12. **Reimbursements.** To the extent water, sewer, storm drainage facilities or other public utilities are oversized or extended onto property by Owner or to the extent public improvements are built off-site of the Property by Owner, by any District or by the City (for which Owner/Developer pays), for benefit accruing to other parties, said improvements may be eligible for reimbursement as provided in Chapter 13.28 of the Evans Municipal Code.

13. **Zoning and Land Use.** The parties recognize that it is the intent and desire of Owner to develop the Property in a manner generally consistent with the definition of *Natural Resources Extraction and Treatment* in the current land use code, inclusive of mining sand and gravel, processing recycled asphalt and concrete on site, crushing materials on site, and batching asphalt on site. A ready mix concrete plant may be proposed in the future through a separate land use permit. The zoning and land use processes are presented in a subsequent paragraph below. Granting the zoning classification by the City of Evans is a material consideration of the Owner's agreement to annex the Property to the City. Owner shall take all action necessary to permit land use activities and zoning by Evans of the annexed Property within the time prescribed by state statute. In the event the City does not zone the land in accordance with the uses further described in this Agreement, then the City agrees not to oppose any disconnection by the Owner, subject to the requirements of state law.

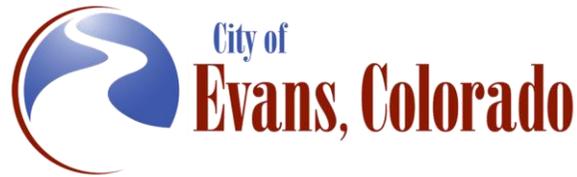
- (A) **Conceptual Plan.** Owner and City shall mutually agree upon a conceptual land use plan that is in accordance with the City's Comprehensive Plan. It is Owner's intent to develop and request zoning for the Property in accordance with the conceptual land use plan as shown in Exhibit **B**.
- (B) Owner agrees that the design, improvement, construction, and development of the Property described herein shall be in conformance with the City of Evans Design Guidelines, as those requirements exist at the time of site plan application.



- (C) Rezoning Process. Upon submittal of required materials, Owner's rezoning request shall be processed concurrently with the petition for annexation. This provision does not waive the authority of the Owner or the City of Evans to initiate rezoning of the land in accordance with the Charter and ordinances of the City of Evans. Land use is subject to the police power and legislative authority of the City of Evans.
- (D) The Owner shall diligently pursue partial release of the State Division of Reclamation, Mining and Safety bond as these parcels become eligible for release.
14. Agricultural Use. The City agrees that Owner may continue the agricultural uses that are presently being conducted on the Property in the same manner as they have historically been performed until the development of the Property as proposed in the Conceptual Plan. The Owner understands and agrees that upon issuance of the first non-agricultural building permit for the Property, such agricultural activities shall cease, and any livestock, barbed wire, and/or electric fences shall be removed from the Property. The Owner understands that discharge of firearms is strictly prohibited in the City of Evans. Fencing materials shall be reviewed with the Site Plan application.
15. Limitation on Fee Impositions by the City. The City agrees that the Property shall be subject to typical development fees similar to those that are imposed on other developments in the City pursuant to the City's regulations and ordinances unless otherwise mutually agreed upon by the Owner and the City.
- 16 Development Agreement. In a form provided by the City, Owner and the City shall enter into a development agreement prior to operating the site and prior to recording the Site Plan. The final form of the development agreement shall be subject to mutual agreement of the parties on the terms and conditions of the same. The development agreement shall be signed prior to or upon approval of the Site Plan application.
17. Conformity with Laws. Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with all applicable laws and ordinances and that Owner shall comply with all City ordinances, resolutions and regulations including without limitation, ordinances, resolutions, and regulations pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to City streets, and flood control.
18. No Repeal of Laws. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of the City's ordinances or resolutions, or as a waiver of the City's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the City and its inhabitants; nor shall this Agreement prohibit the enactment or increase by the City of any tax or fee.
19. Disconnection. Except as expressly provided in Section 13, no other basis, right or remedy of disconnection of the Property from the City shall accrue from this Agreement. In the event the Property or any portion thereof is disconnected, Evans shall have no obligation to serve the disconnected Property or portion thereof and this Agreement shall be void and of no further force and effect as to such Property or portion thereof.
20. Fire Protection District Exclusion. Owner agrees to petition to exclude the Property from the LaSalle Fire Protection District and into the Evans Fire Protection District. This petition shall be filed within ninety (90) days of the acceptance of this Agreement by the Evans City Council.
21. Water Conservancy Municipal Subdistrict Inclusion. Pursuant to CRS 37-45-136(3.6), Owner consents to inclusion of the property into the Municipal Subdistrict, Northern Colorado Water Conservancy District, when the annexation becomes effective.



22. Future Cooperation. The parties agree they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the same.
23. No Joint Venture or Partnership/No Assumption of Liability. Nothing contained in this Agreement is intended to create a partnership or joint venture between the City and Owner or between the City and any one or more of the individual owners listed above, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function, or service, nor does it create a joint enterprise, nor does it constitute any party hereto as any agent of another party hereto for any purpose whatsoever. Except as specifically otherwise provided in this agreement, no party shall in any way assume any of the liability of any other party for any act or obligations of the other party.
24. Amendment. This Agreement may be amended only by mutual agreement of the City and Owner. Such amendments shall be in writing, shall be recorded with the County Clerk and Recorder of Weld County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property and/or Water Rights subject to the amendment unless otherwise specified in the amendment.
25. Entire Agreement. This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written between the parties.
26. Owner. As used in the Agreement, the term "Owner" shall include any of the heirs, transferees, successors, or assigns of Owner, and all such parties shall have the right to enforce this Agreement, and shall be subject to the terms, conditions, and obligations of this Agreement, as if they were the original parties thereto. In the event of a transfer of all or any portion of the Property, provided the City approves such transfer, such approval not to be unreasonably withheld, the transferring Owner shall be relieved of any and all obligations under this Agreement that arise after the date of such transfer with respect to the transferred Property.
27. Amendments to Law. As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any City ordinance, resolution, regulation, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, regulation, or policy, and the parties agree such amendments or revisions shall be binding upon Owner.
28. Binding Effect. This Agreement shall be binding upon and inure to the benefit of all the heirs, transferees, successors, and assigns hereof, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk and Recorder of Weld County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
29. Failure to Annex. This Agreement shall be null and void if the City fails to approve the annexation of the Property.
30. Breach of Agreement.
 - (A) Breach by Developer; City's Remedies. In the event of a default or breach by the Owner of any term, condition, covenant, or obligation under this Agreement, the City may take action, as it deems necessary to



protect the public health, safety, and welfare; to protect lot buyers and builders; and to protect the citizens of the City from hardship. The City's remedies include:

- (1) The refusal to issue to the Owner any development permit, building permit, or certificate of occupancy. This remedy shall not affect sales to bona fide purchasers nor be applied to bona fide purchasers (i.e. purchasers of individual lots by persons unrelated to Owner);
- (2) The refusal to consider further development plans within the Property; and /or
- (3) Any other remedy available at law.

Unless necessary to protect the immediate health, safety, and welfare of the City or City residents, the City shall provide the Owner ten (10) days written notice of its intent to take any action under this Paragraph during which ten-day period the Owner may cure the breach described in said notice and prevent further action the City.

- (B) Breach by City. Parties agree that in the event of a breach by the City, Owner's sole remedy shall be to seek specific performance. Under no circumstances shall Owner be entitled to pursue any action at law or in equity or otherwise against the City that involves any claim of damages, equitable monetary relief, or any other type of monetary claim.

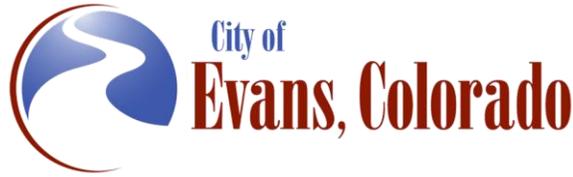
31. General Provisions. City shall:

- (A) Cause its staff to timely and promptly approve or disapprove written submittal by Owner of any plans, specifications, drawings, details or other pertinent data required in connection with any water line, sanitary sewer line, storm drainage or other utility serving the Property or any improvements within any dedicated right-of-way on the Property. Any disapproval shall set forth the items disapproved together with the reasons for such disapproval.
- (B) Use reasonable efforts in securing, at Owner's expense and at no cost or expense to the City, construction and maintenance agreements from governmental or private entities in order to allow Owner to fulfill its obligations under this Agreement and to proceed with development of the Property.
- (C) Cooperate with Owner with any filings, applications, approvals, or other administrative procedures with governmental entities other than the City, which is necessary to allow Owner to fulfill its obligations under this Agreement and to develop the Property in a timely manner.
- (D) Provide police and other municipal services to the Property to the same extent as those services are provided by City throughout the balance of the City, pursuant to the City's uniform applied policies.
- (E) Not unreasonably withhold its consent or approval when any consent or approval is required.

Owner shall notify the City of assignments and the name of the assignee(s) upon the sale or other transfer of any portion of the Property. The transferor of such portion shall be released from all liability and obligation under this Agreement relating to such portion and all such liabilities and obligations shall be assumed by the transferee (unless transferee is a member of the home buying public or governmental entity).

Nothing contained in the Agreement shall constitute or be interpreted as a repeal of existing codes, ordinances or as a waiver of the City's legislative, governmental or police powers to promote and protect the health, safety, and general welfare of the City or its inhabitants; nor shall this agreement prohibit the enactment by the City of any fee which is of uniform or general application.

It is understood and agreed by the parties hereto, that if any part, term or provision of this Agreement is by a court determined to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and



enforced as if the agreement did not contain that particular part, term, or provision held to be invalid. This Agreement may be enforced in any court of competent jurisdiction in Weld County, Colorado.

32. Notice. All notices required under this Agreement shall be in writing and shall be hand delivered, sent by facsimile transmission, or sent via registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices by hand delivery shall be effective upon receipt. All facsimile transmissions shall be effective upon transmission receipt, provided a hard copy is mailed the same date. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either Party, by notice so given, may change the address to which future notices shall be sent.

Notice to City: City of Evans
Attn: City Manager
1100 37th Street
Evans, CO 80620

With copy to: City Attorney
City of Evans
1100 37th Street
Evans, CO 80620

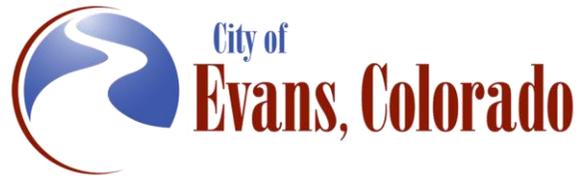
Notice to Owner: Hunt Brothers Properties, Inc.
Daniel W Hunt, President
10100 Dallas Street
Henderson, CO 806408491

33. Election. Owner agrees that he/she/it is voluntarily entering into this Agreement. Owner represents and submits that to the extent an election would be required pursuant to C.R.S. §31-12-112, as amended, to approve the annexation or to impose terms and conditions upon the Property to be annexed, Owner owns 100 percent of the Property, excluding public streets and alleys, and would vote to approve the annexation and all terms and conditions as set forth herein. Thus, any election would necessarily result in a majority of the electors' approval to the annexation and the terms and conditions.

34. Legislative Discretion. The Owner acknowledges that the annexation and zoning of the Property are subject to the legislative discretion of the City Council of the City of Evans. No assurances of annexation, zoning, or special use permit approval have been made or relied upon by the Owner. In the event that, in the exercise of its legislative discretion, any action with respect to the annexation, zoning or special use approval for the Property, as contemplated herein and in the proposed Conceptual Development Plan for the Property, is not taken or if once taken and Owner is in full compliance with such annexation, zoning or special use approvals is not maintained, then the Owner may withdraw the petition for annexation and seek disconnection from the City in accordance with state law, as may be appropriate and City agrees not to oppose.

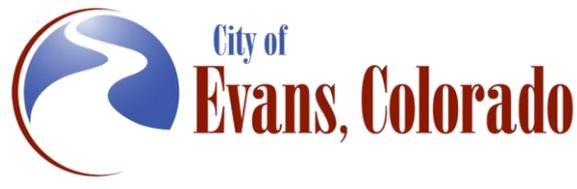
35. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Weld County, Colorado.

36. Headings. The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.



- 37. No Warranties by the City. The City is entering into this Agreement in good faith and with the present intention, on the part of the present City Council, that this Agreement will be complied with. However, because some of the provisions of this Agreement may involve areas of legal uncertainty, the City makes no representation as to the validity or enforceability of this Agreement and that no such warranty is made on the part of the City.
- 38. Attorney's Fees. If any Party breaches this Agreement, the breaching party shall pay the non-breaching party's reasonable costs and attorney's fees incurred in the enforcement of the terms and conditions of this Agreement. The City shall, at all times, have control over the defense of the City in such matters and nothing herein shall be construed to require the City to assert any position which is inappropriate, in the sole judgment of the City. The City and Owner shall confer with each other concerning the defense and/or settlement of any such action.
- 39. Cost Reimbursement to City. Developer shall reimburse City for outside professional consultants such as engineers, testing companies, and attorneys necessitated by processing and completion of this development.

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IN WITNESS THEREOF and agreeing to be fully bound by the terms of this Agreement the parties have set their hands below on the dates indicated.

CITY OF EVANS

DEVELOPER

Hunt Brothers Properties, Inc.

By: _____
Brian Rudy, Mayor

By: _____
Daniel W. Hunt, President

ATTEST:

Julie Kamka, City Clerk

NAME

By: _____

STATE OF COLORADO)

)

COUNTY OF _____)

Acknowledged before me this ____ day of _____, 2022 by _____, as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

(Seal)

Notary Public

**ANNEXATION AGREEMENT
EXHIBITS**

- A. Legal Description
- B. Supporting Narrative and Map Products

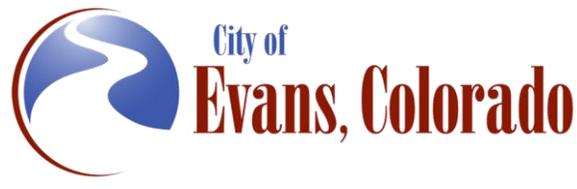


Exhibit A: Legal Description

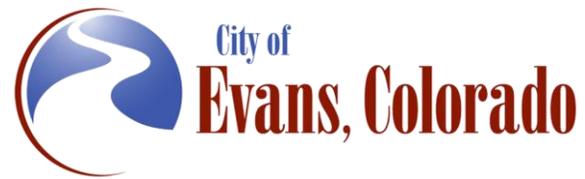


Exhibit B: Project Details

- Project Narrative
- Annexation Map
- Zoning Map
- Site Plan
- Reclamation Plan

**Asphalt Specialties Co., Inc.
Asphalt Plant and Aggregate Mine
In the Vicinity of WCR 35 and WCR 394**

The Stiles Pit

Narrative Description

**Annexation
Change in Zoning from PUD or Agricultural to I-3
Special Use Permit
Asphalt Plant and related aggregate activities
Including concrete and asphalt crushing and recycling
Stacking and Storage of Material**

February 17, 2022



Aerial Picture of the Stiles Pit site

Steve Ward
 Land Development Manager
 Asphalt Specialties Co., Inc.
 303-594-1433

**Asphalt Plant and Aggregate Mine
 East and West side of planned WCR 35 and WCR 394**

The Stiles Pit

**Narrative Description for
 Annexation
 Change in Zoning from PUD to I-3
 Special Use Permit
 Asphalt Plant and related aggregate activities
 Including concrete and asphalt crushing and recycling
 Stacking and Storage of Material**

Asphalt Specialties Co., Inc. has purchased approximately 148 acres in three parcels along the north side of WCR 394. Parcel A is the western most parcel and is located along the west side of the planned WCR 35 extension north from WCR 394. Parcels B and C are east of the planned WCR extension. Parcel A is located in the City of Evans and is currently zoned PUD. Parcels B and C are currently in unincorporated Weld County. All three parcels were purchased from Fred Stiles earlier this year. This project is being referred to for planning purposes as the Stiles Pit.

Asphalt Specialties will be applying to the City of Evans for the following land use and related approvals for the Stiles Pit:

- Annexation of Parcels B and C into the City of Evans;
- Change in Zoning of Parcel A from PUD to I-3 to allow for altering or storing a natural resource, which use would include an asphalt plant and related aggregate mining and processing activities;
- Zoning of Parcels B and C to I-3 to allow for altering or storing a natural resource, which use would include an asphalt plant and related aggregate mining and processing activities;
- Special Use Permit for all three parcels to facilitate stacking of aggregates and storage of aggregate material on an area greater than 30% of the site.
- Aggregate activities on site will include concrete and asphalt crushing and recycling

Land Use Application

Parcel A is currently zoned for PUD, though no development plan has been submitted to the City of Evans for the site.

We plan to apply to the City of Evans for a series of land use entitlements as follows:

Relocating Asphalt Plant

For approximately 9-10 months each year, Asphalt Specialties will operate an asphalt plant on Parcel A at the Stiles Pit. The plant will be one relocated from its existing location near I-25 in the City of Firestone. Aggregate activities relating to the asphalt operations will include concrete and asphalt crushing and recycling.

It is anticipated that the asphalt plant and related aggregate activities will generate maximum daily round-trip truck traffic of 58 trips per day.

Employment

The asphalt plant will typically employ 3 full-time employees from April through November. The aggregate mining activities will typically employ 5 full-time employees continuously throughout the year.

Hours of Operation

Generally, the hours of operation for the asphalt plant will be the hours of daylight, Monday through Saturday, during the normal paving season from April through November.

The hours of operation for sand and gravel operations will be the hours of daylight, Monday through Saturday, throughout the year.

Exceptions to these hours are made for normal holidays. In addition, equipment service personnel may be on-site on Sundays and after daylight hours to conduct maintenance and repairs.

Lot Surface

The vast majority of the site will be mined. Approximately 7 acres along the southern edge of the site will be used for the asphalt plant and related aggregate stacking. Aggregate stockpiles are typically limited to 25' in height. The asphalt plant and associated equipment will be placed on concrete pads. The internal access and circulation roads will be dirt, gravel, or recycled asphalt. No significant structures are anticipated to be built at the Stiles Pit other than the asphalt plant itself.

Stormwater and Utilities

Stormwater will either infiltrate into the ground or be directed into our pit. No stormwater discharge will be discharged from the site.

Drinking water for employees will be bottled. No on-site wastewater treatment system is planned for the site given the mining activities that will be taking place. Bathroom facilities for employees will be of a temporary design, with wastewater vaulted and removed by a licensed contractor.

Water requirements for asphalt production and aggregate mining are expected to be limited. Water for these purposes will be leased for the duration of the asphalt and mining operations on the site.

Atmos Energy provides utility services in the area and has indicated they can serve the Stiles Pit site.

Access From WCR 394

Ingress and egress to and from the site is proposed for WCR 394 and WCR 35. The majority of truck traffic at the site is expected to enter from east-bound WCR 394 and exit either west-bound on WCR 394 or southbound on WCR 35. Trucks will consist of a mix of approximately 50% aggregate hauling tractor-trailers, and 50% asphalt trucks.

Surrounding Properties

The site is located in an agricultural area of Weld County. The initial activity at the Stiles Pit will take place on Parcel A. It is anticipated that within 8-10 years, aggregate mining at the Stiles Pit will be expanded to the east across the WCR 35 ROW on Parcels B and C. Other aggregate mining operations currently exist in the general area of the proposed Stiles Pit. Other trucking operations are also common.



Looking West from the WCR 35 ROW.



Looking East from the WCR 35 ROW.



Looking North along the WCR 35 ROW. The initial Stiles Pit site is to the left.



Looking South along the
WCR 35 ROW. The initial
Stiles Pit site is to the
...

Access From WCR 394 – AP21-00767

Asphalt Specialties Co., Inc. has applied for an Access Permit from Weld County. This permit application is currently in process. The County has provided a draft Improvements & Road Maintenance Agreement. We are currently negotiating certain requested changes in the draft agreement.

Neighborhood Meeting

A neighborhood meeting for the proposed annexation, re-zoning and special use permit was held via Zoom on October 4, 2021 at 5:00 pm.

Notices were mailed more than ten days ahead of the scheduled meeting to all property owners and residents identified in a data set provided by Weld County County.

The mailed notice provided a unique email address to which inquiries could be sent ahead of the neighborhood meeting. No email messages were received prior to the neighborhood meeting.

The meeting started promptly at 5:00 pm.

Steve Ward, Land Development Manager for Asphalt Specialties Co., Inc., the applicant started the meeting.

At least four people joined the meeting.

Albert Bush expressed concern about the increase in traffic on WCR 394. He also inquired as to whether we proposed to do asphalt and concrete recycling. We answered that we did intend to conduct aggregate recycling operations as part of the project.

Heidi Romero, 17509 CR 34, representing her father who owns a home adjoining the project, asked about setbacks, aggregate stacking heights and timing for construction of the asphalt plant.

Brian Johnson, an adjoining homeowner, was concerned about traffic and asked if the speed limit on WCR 394 could be lowered.

There was a general consensus that a traffic light at the intersection of WCR 394 and Hwy 85 would be helpful.

No one else joined the meeting. There was a technical problem with Zoom and the meeting was cut off at 5:38 pm. The meeting was re-joined a few minutes later but only a few of the initial participants were still on line. The meeting then adjourned.

Access From WCR 394 – AP21-00767

Asphalt Specialties Co., Inc. has applied for an Access Permit from Weld County. This permit application is currently in process. The County has provided a draft Improvements & Road Maintenance Agreement. We are currently negotiating certain requested changes in the draft agreement.

HUNT BROTHERS PROPERTIES ANNEXATION TO THE CITY OF EVANS

Part of the Southwest 1/4 of Section 36,
Township 5 North, Range 66 West of the 6th P.M.,
City of Evans, County of Weld, State of Colorado

Sheet 1 of 1

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36 TO BEAR NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

BEGINNING AT THE CENTER 1/4 CORNER OF SAID SECTION 36, ALSO BEING THE EAST LINE OF LOT B, 1AMREC18-85-803, AS SHOWN ON THE PLAT RECORDED SEPTEMBER 18, 2019 AS RECEPTION NO. 4524591 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; THENCE SOUTH 00°47'44" EAST, COINCIDENT WITH THE EAST LINE OF SAID LOT B A DISTANCE OF 721.84 FEET TO THE NORTHEAST CORNER OF LOT A, OF SAID 1AMREC18-85-803; THENCE NORTH 11°44'31" WEST, COINCIDENT WITH THE NORTH LINE OF SAID LOT A, A DISTANCE OF 197.98 FEET TO THE NORTHWEST CORNER OF SAID LOT A; THENCE SOUTH 02°17'09" WEST, COINCIDENT WITH THE WEST LINE OF SAID LOT A, A DISTANCE OF 870.91 FEET TO THE SOUTHWEST CORNER OF SAID LOT A AND THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD 394; THENCE SOUTH 64°46'49" WEST, COINCIDENT WITH THE NORTH LINE OF SAID LOT B, AND THE NORTH RIGHT-OF-WAY LINE OF SAID COUNTY ROAD 394, A DISTANCE OF 1288.51 FEET TO THE SOUTHWEST CORNER OF SAID LOT B; THENCE NORTH 00°28'56" EAST, COINCIDENT WITH THE WEST LINE OF SAID LOT B, A DISTANCE OF 324.35 FEET TO THE NORTH LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED JANUARY 29, 2020 AS RECEPTION NO. 4562229 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; THENCE SOUTH 61°11'33" WEST, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 272.90 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 26°44'39" EAST, COINCIDENT WITH THE WEST LINE OF SAID PARCEL, A DISTANCE OF 2.08 FEET TO THE NORTH LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED JUNE 18, 2018 AS RECEPTION NO. 4407999 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; THENCE SOUTH 81°52'09" WEST, COINCIDENT WITH THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 18.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 26°08'24" EAST, COINCIDENT WITH THE WEST LINE OF SAID PARCEL, A DISTANCE OF 390.69 FEET TO THE SOUTH LINE OF LOT B, REC17-0197, AS SHOWN ON THE PLAT RECORDED JANUARY 17, 2018 AS RECEPTION NO. 4368408 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD 394; THENCE SOUTH 64°50'21" WEST, COINCIDENT WITH THE SOUTH LINE OF SAID LOT B AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 805.34 FEET TO THE SOUTHWEST CORNER OF LOT A, OF SAID REC17-0197; THENCE COINCIDENT WITH THE EAST AND NORTH LINES OF SAID LOT A, THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

- 1) NORTH 24°23'12" WEST, A DISTANCE OF 311.13 FEET;
- 2) THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 59.34 FEET AND A CENTRAL ANGLE OF 67°42'44", WHOSE CHORD BEARS NORTH 67°15'25" WEST, A DISTANCE OF 66.12 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 70.13 FEET;
- 3) SOUTH 73°52'52" WEST, A DISTANCE OF 109.42 FEET;
- 4) SOUTH 77°07'49" WEST, A DISTANCE OF 31.94 FEET TO THE EAST RIGHT-OF-WAY LINE OF 35TH AVENUE AND THE EXISTING MUNICIPAL LIMITS OF THE CITY OF EVANS, AS SHOWN ON ANNEXATION PLAT RECORDED JUNE 20, 2006 AS RECEPTION NO. 3397579 IN THE RECORDS OF THE CLERK AND RECORDER FOR WELD COUNTY, COLORADO; ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 1650.00 FEET AND A CENTRAL ANGLE OF 03°23'10", WHOSE CHORD BEARS NORTH 06°58'13" WEST, A DISTANCE OF 97.50 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 164.32 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1550.00 FEET AND A CENTRAL ANGLE OF 11°54'21", WHOSE CHORD BEARS NORTH 06°28'43" WEST, A DISTANCE OF 321.51 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1610.93 FEET TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36; THENCE NORTH 88°28'08" EAST, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 1268.98 FEET TO THE CENTER-WEST 1/16 CORNER OF SAID SECTION 36; THENCE NORTH 88°28'08" EAST, COINCIDENT WITH THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36, A DISTANCE OF 1318.33 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 4,984,063 SQUARE FEET OR 114.42 ACRES, MORE OR LESS.

OWNER'S CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS, THAT HUNT BROTHERS PROPERTIES, BEING THE SOLE OWNERS AND PROPRIETORS OF THAT PARCEL OF LAND DESCRIBED HEREON, EXCLUDING PUBLIC RIGHTS-OF-WAY, REQUEST THAT THE LAND DESCRIBED HEREON BE ANNEXED UNDER THE NAME OF HUNT BROTHERS PROPERTIES ANNEXATION TO THE CITY OF EVANS

DAN HUNT - PRESIDENT

STATE OF COLORADO }
COUNTY OF _____ } SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20____

BY: DAN HUNT AS PRESIDENT OF HUNT BROTHERS PROPERTIES

WITNESS MY HAND AND OFFICIAL SEAL.

(SEAL) _____
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CITY OF EVANS APPROVAL:

THIS IS TO CERTIFY THAT HUNT BROTHERS PROPERTIES ANNEXATION TO THE CITY OF EVANS WAS APPROVED ON THE _____ DAY OF _____, 20____ BY ORDINANCE NO. _____ AND THAT THE MAYOR OF THE CITY OF EVANS, ON BEHALF OF THE CITY OF EVANS, HEREBY ACKNOWLEDGES SAID ANNEXATIONS UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR _____

ATTEST: TOWN CLERK _____

SURVEYOR'S STATEMENT:

I, CURTIS D. HOOS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE BY ME OR UNDER MY SUPERVISION, AND THIS PLAT ACCURATELY REPRESENTS SAID SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY ME TO DETERMINE OWNERSHIP. FURTHERMORE THIS CERTIFIES THAT AT LEAST ONE-SIXTH (1/6) OF THE PROPERTY SHOWN HEREON IS CONTIGUOUS WITH THE BOUNDARY OF THE TOWN OF KEENESBURG.

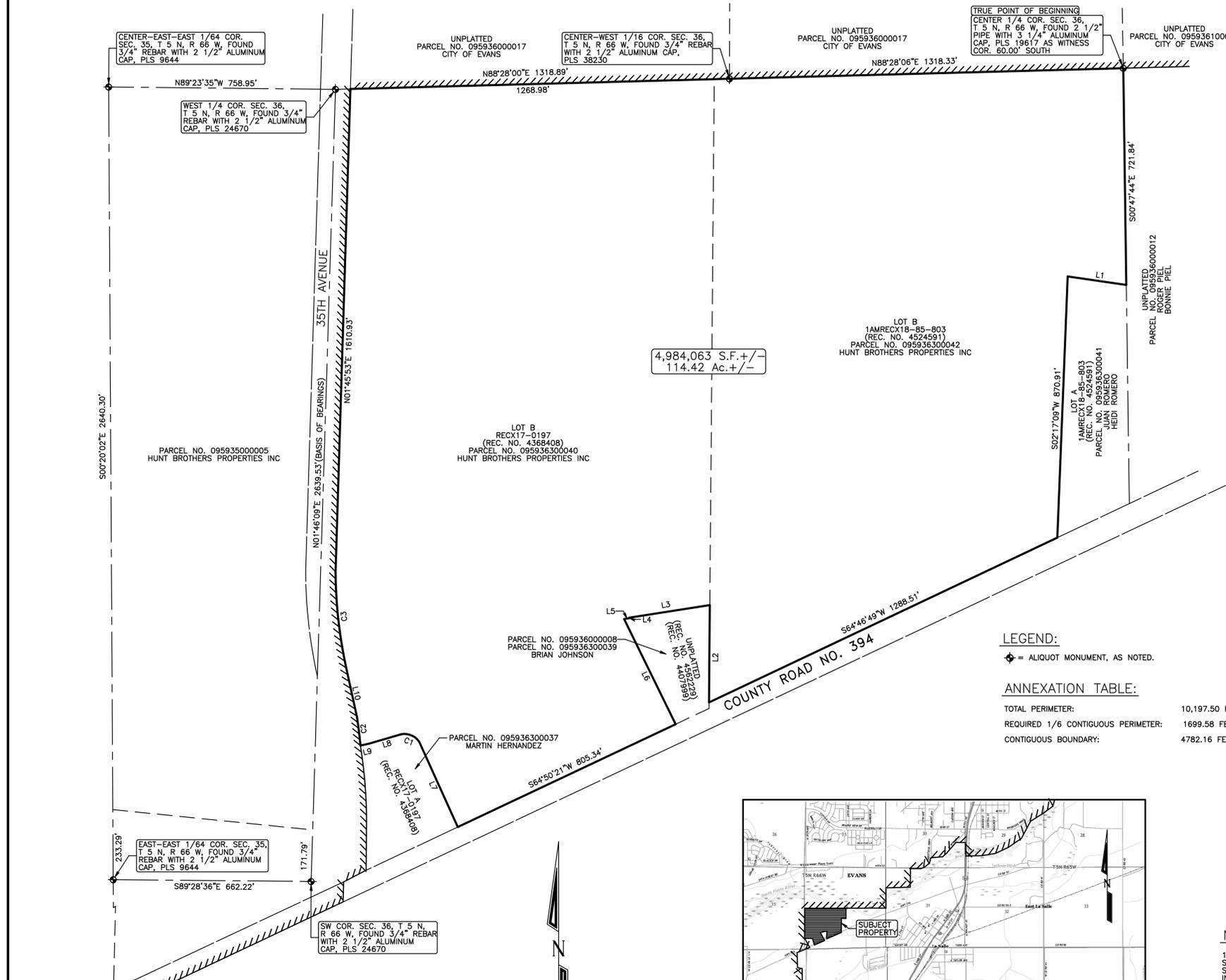
CURTIS D. HOOS PLS 37971
FOR AND ON BEHALF OF:
AMERICAN WEST LAND SURVEYING CO.
A COLORADO CORPORATION

NOTES:

- 1) BASIS OF BEARING: ALL BEARINGS SHOWN HEREON ARE BASED UPON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE (0501) WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., IN WELD COUNTY, COLORADO BEARING NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, WITH ALL BEARINGS SHOWN HEREON RELATIVE THERETO.
- 2) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-6-508, C.R.S.
- 3) CERTIFICATION DEFINED: THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR, IN THE PRACTICE OF HIS PROFESSION OF SURVEYING, CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OF FINDINGS WHICH ARE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.
- 4) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTIONS BASED UPON A 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.
- 5) DISTANCES ON THIS DRAWING ARE EXPRESSED IN U.S. SURVEY FEET AND DECIMALS THEREOF. A U.S. SURVEY FOOT IS DEFINED AS EXACTLY 1200/3937 METERS.
- 6) PROPERTY BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON ALTA/NSPS LAND TITLE SURVEY CONDUCTED BY AMERICAN WEST LAND SURVEYING CO. DATED JUNE 22, 2020.



PO Box 129, Brighton, CO 80601 * P:303-659-1532 F:303-655-0575 * amwestlls.com
SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: NOV. 22, 2021
REVISIONS:
JOB NO: 21-

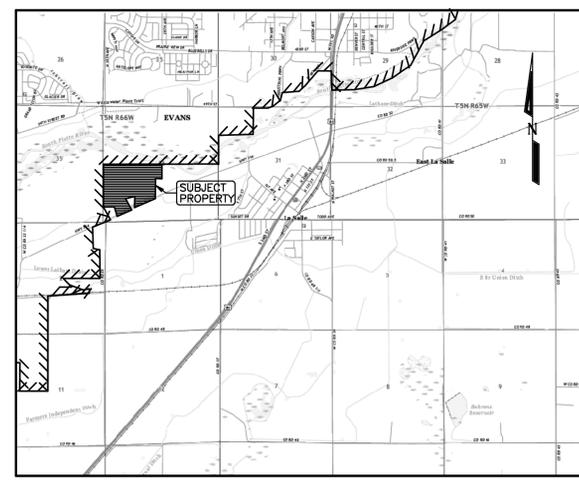


4,984,063 S.F. +/-
114.42 Ac. +/-

LEGEND:
◆ = ALIQUOT MONUMENT, AS NOTED.

ANNEXATION TABLE:

TOTAL PERIMETER:	10,197.50 FEET
REQUIRED 1/6 CONTIGUOUS PERIMETER:	1699.58 FEET
CONTIGUOUS BOUNDARY:	4782.16 FEET



VICINITY MAP: 1" = 4000'

LINE	BEARING	DISTANCE
L1	N81°44'31"W	197.98'
L2	N00°28'56"E	324.35'
L3	S81°11'33"W	272.90'
L4	S26°44'39"E	2.08'
L5	S81°52'09"W	18.12'
L6	S26°08'24"E	390.69'
L7	N24°23'12"W	311.13'
L8	S73°52'52"W	109.42'
L9	S77°07'49"W	31.94'
L10	N12°23'53"W	164.32'

LINE	RADIUS	ARC	DELTA	CHORD BEARING	CHORD
C1	59.34'	70.13'	67°42'44"	N67°15'25"W	66.12'
C2	1650.00'	97.51'	03°23'10"	N06°58'13"W	97.50'
C3	1550.00'	322.09'	11°54'21"	N06°28'43"W	321.51'

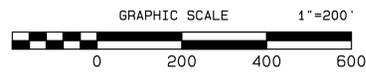
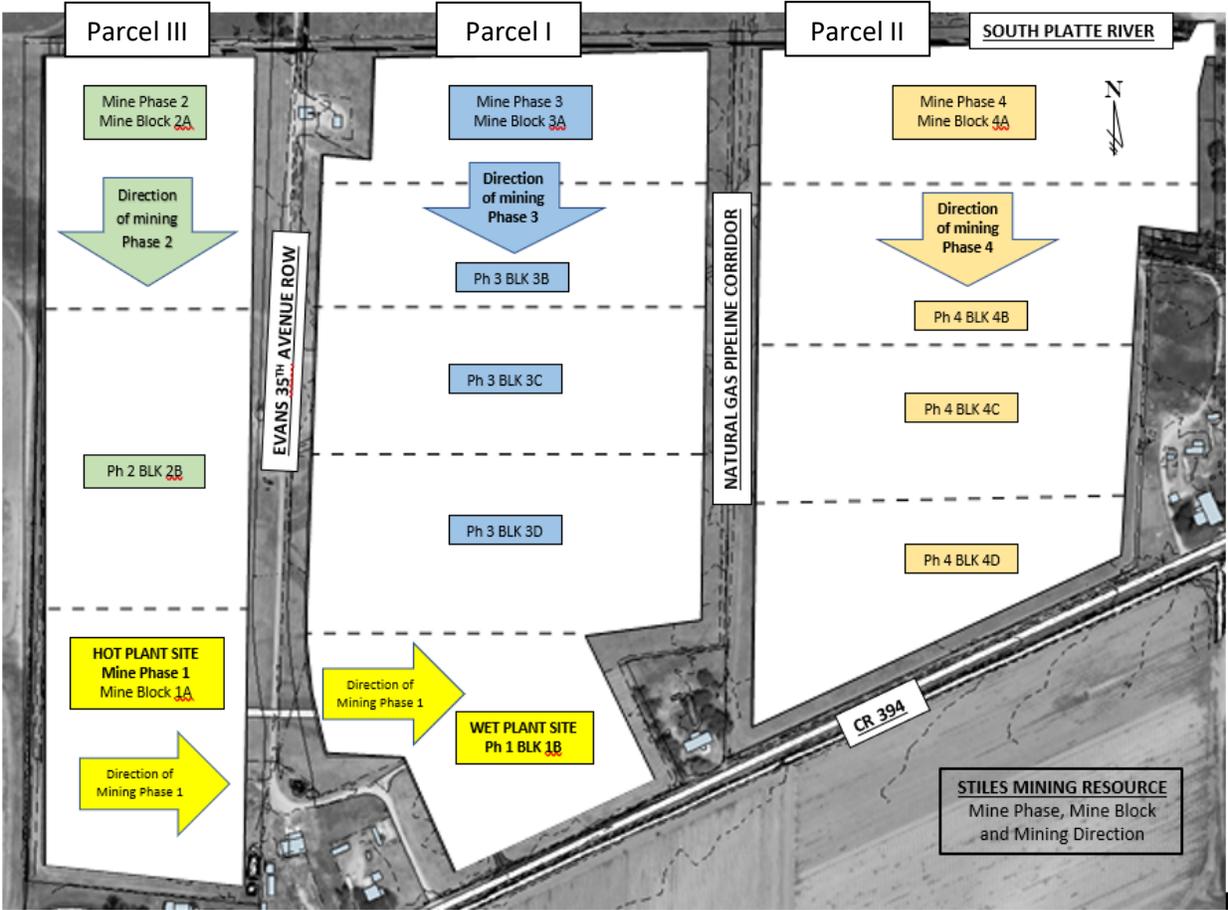


Exhibit E – Reclamation Plan



- 1) Asphalt Specialties will use procedures that minimize area disruption by our mining operation. Reclamation is achieved by the establishment of native grass and forbs; stabilization of soil and protection of the area water resources that provide for the beneficial use of the affected lands.
- 2) Project reclamation will return this site to usable property, by using inert material to fill the mined areas. The site reclamation plan calls for phased reclamation, with reclamation phase 1 continuing from west to east; and phases 2 through 4 progressing from north to south. Reclamation phase areas will be between 10 to 13 acres. Reclamation will include the placement and seeding of cover material over fill areas, except for permanent road and heavy industrial areas.
- 3) The Stiles Mining Resource permit area is 158.3 acres which includes the City of Evans 35th Avenue ROW and Hunt Brother Properties. The minable area is ±125 acres that is divided into four mine phases and twelve mine blocks. The area affected by mining at one time will be ±60 acres; except for the first two years when the overburden stripping operations will affect about 75 acres.
- 4) The time to complete the mining of the area is estimated to be 40 years. Maximum production is expected to be ±300,000 tons per year. Final reclamation is expected to be complete in ±45 years. Due to market and economic considerations, mining could progress faster or slower than expected, which will adjust the time for mining and reclamation of the site.
- 5) Use - The property at one time was worked as an irrigated farm. The prior property owners use for the land included a livestock and dry land grazing operation. The dominant land uses surrounding the property includes water recharge to the west; oil and gas in the area, recreation along the river, residential to the south along CR 394, heavy industry on the north side of the river and agriculture

production in the area. The completion of the bridge and 35th Avenue will connect this area to the existing industrial area that is north of the river.

- a) The reclamation uses for the Stiles Mining Resource's include General Agriculture - dryland pasture and heavy industry. Reclamation to general agriculture and heavy industry is a positive and useful post-closure land use that is compatible with surrounding uses.
 - b) The mining area will be reclaimed as either heavy industrial or general agriculture which will be reseeded with native grass and forb vegetation.
 - c) Initially ASCI is planning to reclaim a twenty-three (23) acres of the of the permit area as heavy industrial within the first two years of operation. ASCI plan to reclaim one hundred and two (102) acres of the remaining mineable area as general agriculture – dryland pasture. The balance of the properties reclamation will consist of heavy industry, unimproved access roads or otherwise undisturbed land.
- 6) The Evans City limit currently includes ASCI's Parcel III on the west side of 35th Avenue, which is an undeveloped City Avenue. The City of Evans is extending their city limit by annexation to include Parcel I and II east of 35th Avenue.
- a) The annexation of the land by the City of Evans includes zoning of the property as a Heavy Industrial District, I-3, per the **City of Evans – Municipal Code, Title 18 – Land Development Code, Chapter 18, 18.04.080 – C, Heavy Industrial District (I-3)**. The purpose of this zoning is to supply a district in which heavy industrial uses are found within the city limit. Heavy industry consists of uses such as quarry and gravel pits, asphalt plants, ready mix concrete plants, large-scale industry, used auto parts, incinerators, and other similar operations.
 - b) Asphalt Specialties intention is to run our asphalt hot plant, recycle aggregate material operation, and aggregate wash plant as a permanent industrial businesses. This site is a permanent industrial location and shall be the final reclamation for this part of the industrial site as depicted on the mine plan map, Mine Phase 1, Mine Blocks 1A and 1B.
 - i) A minimum of twenty-three (23) acres will be reclaimed to heavy industrial within the first two years of operation.
 - c) Mine Phases 2 through 4 will be zoned as a Heavy Industry District but will initially be reclaimed as general agriculture – dryland pasture, until such time that a heavy industrial use is found.

Materials

- 1) Existing site materials and imported inert materials will be used to backfill the mine site.
- 2) Topsoil –The topsoil will be stored as shown on Exhibit C Mine Plan Map. The volume of topsoil for all the mining phases is $\pm 188,000$ tons or $\pm 1,500$ tons per acre. The depth of the topsoil ranges from six (6) to twelve (12) inches over the mining area. The topsoil will be striped for phase 1, 2, and 3 and stored in the mine buffer along the south boundary of phase 1, 2 and 4 in the flood plain and outside of the excavation area. The topsoil will be stored in stockpiles about 15 ft high for future reclamation activities. Topsoil stockpiles will have vegetative stabilization applied to the surface.
- 3) Overburden - Overburden will be used as backfill of phase 1 excavation areas. Overburden material will be used on site for mine backfill and reclamation. Overburden stockpiles will be found within the various mining blocks. The volume of overburden for all the mining phases is $\pm 1,125,000$ tons or $\pm 9,000$ tons per acre. The depth of the overburden ranges from 2 to 4 feet over the mine area.
 - a) Overburden stockpiles shall be seeded if it is predicted the material will be stored more than one year. This will minimize erosion prior to use in mine reclamation.

4) BACKFILL

- a) Onsite overburden, onsite crusher fines, wash plant fines and imported inert material will be used to backfill the mine.
- b) The only material received at the site will be inert material per the DRMS Construction Material regulations 2 CCR 407-4 Rule No. 1.1 Definition (20) "**Inert Material**" means **non-water-soluble and non-putrescible solids together with such minor amounts and types of other materials, unless such materials are acid or toxic producing, as will not significantly affect the inert nature of such solids. The term includes, but is not limited to, earth, sand, gravel, rock, concrete which has been in a hardened state for at least sixty days, masonry, asphalt paving fragments, and other inert solids.**
- c) Inert Backfill Material - It is ASCI's intention to use primarily native and natural aggregate materials for inert backfill material. It is especially important to ASCI that only acceptable non-contaminated, inert materials are delivered to the site. ASCI will use reputable contractors that will follow site permit rules and guidelines. ASCI will collaborate with the contractors to obtain assurances that the inert materials are free of contaminants and are native or natural materials. ASCI will exercise every effort to learn as much as reasonably possible about the inert materials received at the site to ensure that those materials are free of contaminants. All inert materials are delivered by pre-approved contractors that have a history of working with ASCI.
- d) Clean, offsite - inert materials will be accepted and incorporated as mine backfill material that include soil, earth, dirt, gravel, sand, rock, and masonry. Onsite materials to be incorporated into the backfill may include overburden, wash plant and crusher fines.
- e) Using inert fill materials to fill the site will allow for future heavy industry or dryland pasture use on the property. The benefits for the inert fill materials are:
 - i) Creating usable property for agriculture use.
 - ii) Increasing the visual attractiveness of the site and surrounding area.
 - iii) Providing private entities with inert fill alternatives.
 - iv) Revenue to the City of Evans and the State in future taxes from industrial companies that will locate to the site.
 - v) Increased employment opportunities created by the development of the inert filling operations and reclamation of this site.
- f) No contaminated materials will be allowed on or accepted at the site.
- g) Asphalt and concrete materials are considered an inert material, but ASCI will be diverted these materials to the recycled aggregate materials operation.

PHASED RECLAMATION

- 1) The site will be filled in phases. Reclamation will occur concurrently with mining wherever possible to directly backfill material into previously mined areas.
 - a) The expected reclamation schedule is presented in the following table. Inert backfill material may be stockpiled until an excavation is ready to receive the backfill material.
- 2) Mine Phase 1, Mine Blocks 1A (Asphalt Hot Plant/Recycle material area, ±12 acres and Mine Block 1B is the wet plant area (±11 acres) reclamation is heavy industry.
 - a) These areas will be filled with onsite overburden to set up final site contours for the industrial facilities in about one year.
 - b) These sites will be graveled. No topsoil or seeding is needed to complete the reclamation of these areas.

- 3) Reclamation of Mine Phases 2 through 4, each mine block will be reclaimed as General Agriculture - dryland pasture.
 - a) Future industrial use of Mine Phases 2 through 4 – When an industrial use is found for a mine phase/block (#), a technical revision will notify the Division Reclamation, Mining and Safety that the City of Evans has authorized a new industrial use for areas currently planned as General Agriculture reclamation.
 - b) Adequate land area will be subdivided and developed as needed for the future heavy industrial use. Until a workable industrial use is found, reclamation of the property will be managed as general agriculture - dryland pasture.
 - c) Mine phase 2, 3 and 4 will be filled with clean inert backfill from North to South. The mine blocks will be graded to contours consistent with the reclamation plan and similar to existing contours. Based on an estimated annual fill rate of 250,000 tons/yr., it will take ± 45 years to complete the clean inert fill and final reclamation of mine phases 2 through 4.
- 4) The City of Evans 35th Avenue and PDC Energy's gas pipeline right of ways will be reclaimed as dry land pasture, except for permanent access roads.
- 5) BACKFILL - After an area of the property has been mined of sand and gravel, backfilling of the excavated areas will take place as the first step of the Stiles Mining Resource reclamation plan. The compacted backfill material will be placed in lifts from the bottom of the mine to within ± 6 inches of the land surface. ASCI shall backfill the mined area with onsite overburden and inert materials that are compacted for stability.
 - a) Backfill material will be imported to the mine with articulated dump trucks and/or highway dump trucks. The material will be placed, spread, and compacted in 1-to-2-foot lifts using a bulldozer, excavator, or loader. Compaction will take place during the filling process, as heavy trucks and equipment traverse over the fill.
 - b) Backfill materials used within the affected area will be managed to prevent any unauthorized release of pollutants to the surface drainage system.
- 6) Completion of inert backfill with topsoil.
 - a) After completion of the inert material backfill, a final topsoil cover \pm six (6) inches thick will be placed on top of the backfill to reach final grade. The topsoil layer will be seeded with a native grass seed mix to return the property to general agricultural – dryland pasture use. This material will be applied to all disturbed areas, with exception of industrial areas, permanent access roads and mine buffers.
- 7) The Site will be graded and returned to the approximate topographic elevations prior to mining. The approximate final contours of the Site are shown on Exhibit F - Reclamation Plan Map. The final grades will allow for the development of heavy industry uses. The final grades will allow general agriculture operations, farm machinery and livestock to traverse the area.
 - a) There are no permanent steep slopes at the site.
 - b) Temporary excavation slopes and temporary stockpiled material slopes may range from 1:1 to 3:1 depending on soil conditions in the mine. All slopes will be maintained for site safety and to minimize material erosion.
 - c) Final grades will allow for site drainage to flow gently as sheet flow to northeast, consistent with pre-development drainage.
 - d) The grading at Stiles Mining Resource shall control water runoff, erosion, and siltation to protect all areas outside the mine. During mining operations, the site will be graded, and best

management practices will be used to keep all storm water on the site and within the mine boundary.

- e) All backfilling and grading shall be completed as soon as possible after the mining process.

8) Reclamation Items

- a) No woody vegetation is present within affected areas.
- b) No organic materials will be used for backfilling material.
- c) No inert material will be backfilled outside the affected permitted area.
- d) No highwalls will be left on site. Temporary highwalls may be used during the mining operations. All temporary mining highwalls will be inspected daily and maintained in a stable condition.
- e) No toxic or acid-forming materials will be used in material processing or as backfill material. This will prevent leaching of acids into the ground water. If any unknown refuse, acid-forming or toxic producing materials are inadvertently mined, they shall be managed and disposed of in a manner that will control unsightliness and protect the drainage system from pollution.
- f) No building or structures are to be left on-site or constructed as part of the reclamation plan.
- g) No earthen dams will need to be constructed.
- h) No drill or auger holes will remain as part of this mining operation.
- i) No solid waste will be accepted at this site.
- j) Topsoil stockpiles are in locations and configurations to minimize their erosion and disturbance. Topsoil will be replaced and graded to mimic pre-mining elevations.
- j) All refuse will be disposed of to protect the South Platte River drainage system.

WATER

- 1) Water - ASCI will minimize disturbances to the prevailing hydrologic balance and water quality of systems (surface and groundwater) both during and after mining and reclamation phases.
 - a) ASCI will follow applicable Colorado water laws and regulations and will not injure any existing water rights.
 - b) ASCI will follow and keep water quality standards of the Water Quality Control Commission (WQCC).
 - c) No unauthorized release of pollutants to groundwater will occur from materials mined, handled, or used as inert backfill.
 - d) All surface areas and temporary stockpiles piles will be stabilized to effectively control erosion using proper erosion best management practices.
 - e) All mined material not suitable for sale or off-site use such as wash plant and crusher fines will be disposed of in the inert backfill to prevent any release to the surface drainage system.

TOPSOILING

- 1) During mining the topsoil will be removed, segregated, and stabilized with a vegetative cover away from other material stockpiles.
 - a) The vegetative cover shall be used to protect the topsoil from erosion and to assure that it is in usable condition for reclamation.
 - b) Every effort will be made to conserve workable topsoil.
- 2) Topsoil stockpiles shall be stored in configurations to minimize erosion and found in areas where disturbance is minimized by ongoing mining operations. Such stockpile areas are in the affected mining area.
- 3) Once stockpiled, the topsoil shall be rehandled as little as possible until replacement on the reclaimed mine surface.

- 4) The topsoil will be replaced in a uniform and smooth lift to material.
- 5) Soil testing maybe conducted on the topsoil because of the extensive earth moving and storage of the topsoil. The grass seed needs nutrients and moisture to germinate and grow.
 - a) Native grasses in the seedling stage are not typically responsive to soil nitrogen. Most weed species can be very vigorous when soil nitrogen supplies are generous. Soil tests may show deficiencies of soil nutrients: phosphorus, potassium, sulfur, zinc. These deficiencies may be corrected by a fertilizer application prior to cover crop seeding or native grass seeding.
 - b) Fertilizer is not recommended now, but in the future as reclamation progresses, it may be determined that fertilizer is needed to help in the establishment of a healthy stand of perennial grass. ASCI may add fertilizers and/or soils amendments, per the recommendation of an agronomist and the soil tests at the time.

VEGETATION RECLAMATION – ASCI’s reclamation plan for the surface of Mine Phase 2 through 4 and the mine buffers is general agriculture - dryland pasture. The dryland pasture will have vegetation that is diverse and capable of self-regeneration. The fill areas, as well as other disturbed areas, will be revegetated with non-irrigated native grass and forb seed mixes. Natives plant species are tolerant to extremes of heat or cold, drought and a variety of other harsh environmental conditions.

PLANTING METHODS AND DEPTHS

- 1) ASCI will use two seeding methods which are drill seeding and broadcast seeding. Drill seeding places the seed in a firm seed bed, just under the surface. This supplies the best seed/soil contact and the highest success rates. ASCI will drill seed at rate of 12 – 16 pounds of pure live seed (pls)/acre.
- 2) ASCI will also use broadcast or hand seeding. Broadcast seed is applied directly to the soil surface at twice the drill seed rate or 24 to 32 pls/acre. Broadcast seeding will be used in isolated areas to fill in gaps in the seed coverage.
- 3) ASCI will use either a cover crop or native grass straw mulch to protect and enhance the success of the reclamation grass / forb establishment.
- 4) Seed planting depths will be reviewed and taken into consideration prior to planting. Native grass seed should not be planted too deep and is typically between ¼ to ½ inch below the ground surface.
- 5) Access roads and/or fire lanes will be constructed through areas to be planted, as necessary.
- 6) Reclamation will not include trees or shrubs.
- 7) Grazing will not occur until the vegetation is regenerating with good grass ground cover.
- 8) ASCI will employ the right techniques of site preparation to ensure a diverse and long-lasting vegetative cover (e.g., spraying herbicides, burning, discing, crimping, ripping, mulching, soil amendments and fertilizers).
- 9) ASCI will watch the progress of revegetation and implement weed control practices that are proper for any areas infested by noxious weed species.

SEEDING RATES

- 1) Drill seeding: 12-16 pounds pure live seed (pls)/acre
- 2) Broadcast seeding: 24-32 pls/acre
- 3) Cover crop seeding: 5-10 pounds/acre

NATIVE GRASS AND FORBS

- 1) NATIVE GRASS AND FORBS - Natives plant species are tolerant to extremes of heat or cold, drought and a variety of other harsh environmental conditions. The dryland pasture will have vegetation that is diverse and capable of self-regeneration. Native species generally have small seeds and require

shallow seeding depths (¼-½"). Seed can remain viable for years until the right soil conditions are met for seed germination. Germination can be prolonged due to naturally occurring seed dormancy.

- 2) **WILDFLOWERS (Forbs)** Native wildflowers are an important addition to this native grass planting. Besides adding beauty to stands of native grasses, wildflowers are an important food source for game birds, songbirds, and mammalian wildlife as well as grazing livestock. Wildflowers will be planted one to three years after establishment of the native grasses. This would allow herbicide use until the grasses are established and herbicides are not needed. Wildflower species grow well in stands of established grass.
- 3) **SEED MIXES**

Reclamation Native Grass Seed Mix Stiles Mining Resource - Weld County	pls / acre	% Seed Mix
Western Wheatgrass (Arriba, Barton, Rosana)	2.50	18%
Blue Grama (Hachital, Lovington)	1.50	11%
Sideoats Grama (Vaughn, Butte, Niner, El Reno, Haskell)	2.25	16%
Smooth Brome (Lincoln, Manchar)	2.00	14%
Sand dropseed	0.25	2%
Perennial Ryegrass (Calibra or Garibaldi tetraploid)	0.75	5%
Slender Wheatgrass (Pryor, Revenue or San Luis)	2.50	18%
Alkaligrass (Fults II, Salt on Sea)	1.25	9%
Switchgrass (Nebraska 28, Blackwell)	1.00	7%
Total:	14.00	100%

Reclamation Native Forb Seed Mix Stiles Mining Resource - Weld County	pls / acre	% Seed Mix
Western Yarrow	0.14	3%
Plains Coreopsis	0.27	6%
Purple Prairie Clover	0.59	13%
Narrowleaf Penstemon	0.09	2%
Blanketflower	0.45	10%
Dotted Gayfeather	0.09	2%
Blue Flax	1.58	35%
Clasping Coneflower	0.14	3%
Prairie Coneflower	0.32	7%
Mexican Hat	0.32	7%
Scarlet Globemallow	0.14	3%
Prairie Aster	0.14	3%
Prairie Cinquefoil	0.09	2%
Lanceleaf Coreopsis	0.18	4%
Total:	4.50	100%

PLANTING, MULCH OR COVER CROP

- 1) **PLANTING WINDOW FOR NATIVE SEED** - Ideal dormant seeding window is December 1 – May 1 for the native grasses, followed by an application of crimped native grass hay. Seed may remain viable for years in the soil waiting for the right conditions to germinate. Native seed planting is typically

planned for December through May. This timing will improve seed and soil contact by taking advantage of the pounding action of rainfall, weight of snow and the freeze/thaw heaving action in the soil.

- a) NATIVE SEED PLANTING FOLLOWED BY NATIVE GRASS HAY MULCH - If seeding grasses and forbs into bare soil is needed, ASCI will use crimped in native grass hay to slow the wind and water erosion. Crimped hay will be applied at ± 2 tons/acre of weed free native grass. Hay length should be at least ten (10) inches long for 70% of the product used. The hay should be clean and free of mold, decay, mud, and other debris.
- 2) ALTERNATE METHOD - PLANTING WINDOW FOR COVER CROP AND NATIVE SEED - If the cover crop seed planting window is May – July; ASCI will plant a sterile sorghum cover crop, then mow to kill the cover crop before viable sorghum seed formation is achieved later in the season. Then in December – May: the native seed mix will be planted into the sorghum cover mulch. This planting sequence **will not** require the native grass hay mulch.
 - a) PLANTING A COVER CROP FOLLOWED BY NATIVE SEED PLANTING - A sterile sorghum cover crop will be planted prior to seeding of natives grasses. The cover crop residue will supply protection that will guard the soil against wind and water erosion. Seed formation by these cover crops can be limited or controlled using sterile hybrids and by planting late so that sorghums are not able to mature and form seed. The sorghum will be allowed to grow, then killed by mowing prior to planting the native grass seed. The sorghum cover crop mulch will not readily decompose. This area needs a persistent mulch due to the semi-arid, low humidity, and windy environment. Mulch supplies shading which slows the drying of the soil surface. Surface soil moisture and maintenance of mulch or a cover crop residue, is essential to native grass establishment.
- 3) ASCI will avoid cover crops which leave residues that may be allelopathic (naturally occurring chemicals that inhibit germination of the native grass seedlings) such as wheat stubble or wheat straw mulch and will not be used to cover the native grass crop.

WEEDS –

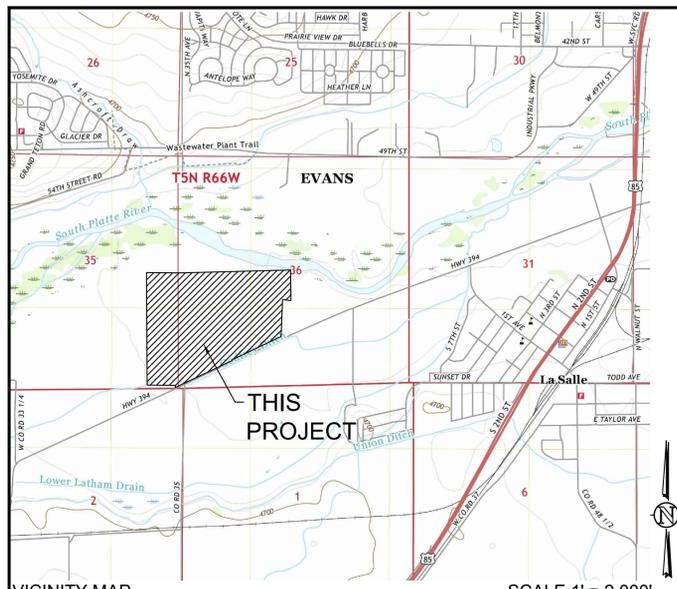
- 1) Periodic weed inspections will monitor for weed infestations until the reclamation bond is released. ASCI will implement cultural, mechanical, and biological control methods including an aggressive mowing program to prevent the growth and establishment of weeds.
- 2) After the topsoil is replaced, which has a significant seed load, we will watch for the emergence of noxious weeds and treat accordingly.
 - a) Once the topsoil is placed and graded, tillage will be kept to a minimum.
 - b) By taking this extra time to evaluate the weeds on the property, ASCI will increase the of success of establishment of the native grass/forb establishment. Reducing the population of weed seeds prior to planting the reclamation crop is important to successful establishment of the reclamation crop.
- 3) **The primary method of weed control will be mowing.**
 - a) Mowing is the best method of weed control in native grass plantings. Weeds commonly achieve plant height well above that of native grasses in the first season of growth. Mowing improves the competitive advantage of native grasses. The site will be inspected to decide the best mowing height that will remove as significant foliage from weeds and keep damage to the native grasses leaf area to a minimum.
 - b) Mow whenever considerable damage can be dealt to the weed population.
 - c) Mowing large weeds can cover small native seedlings with large amounts of residue. Removal of a thick weed canopy can occasionally cause native seedlings to be "shocked" by sudden exposure to full sunlight.

- d) Frequent mowing is the best means of reduce excessive mowing residue and sunlight shock from removing the weed cover.
- e) Mowing improves native grass seedlings' ability to compete with weeds.
- f) Mowing for weed control will be relied on throughout the establishment period.
- 4) When cover crops are proven prior to native seeding, it may be beneficial to control weeds in the cover crop. Herbicides will be chosen that will not carryover in the soil to cause problems for new native grasses. Native grass species can be sensitive to herbicides prior to becoming fully established and it is our intention to avoid herbicides the first year.
- 5) Weed management strategies will be implemented from the outset to achieve final reclamation.
 - a) Methods include keeping healthy pastures, using weed-free crop seed, weed-free manure and hay, and clean harvesting and tillage equipment, as well as the elimination of weed infestations in areas bordering cropland, and in irrigation ditches and canals.
 - b) **Cultural:** Methods include and are not limited to: Setting up and managing an adequate population of desirable vegetation to compete with the weeds; using livestock (cattle, goats, sheep) when possible; mulching; burning; and even plastic weed barriers.
 - c) **Mechanical:** Methods include mowing and tillage.
 - d) **Biological:** Biological weed control involves the use of natural enemies for the control of specific weed species. This method can be successful especially when combined with other control methods.
 - e) **Chemical:** Always **read the label** before using any herbicide!
 - i) If needed, herbicide application will be applied to further control weed infestations per the recommendation of a licensed and bonded herbicide applicator. ASCI will work with a knowledgeable area agronomists who is experienced with local conditions.

SCHEDULE

Stiles Mining Resource Reclamation Phase and Block Schedule					Approximate Year for Operation			
DESCRIPTION	Mine Phase	Mine Block	Buffer Area (Acres)	Mine Block Area (Acres)	Backfill	Buffer Weed Control and Seeding	Seeding & Weed Control	Reclamation Release
Mine Phase 1 (West Survey Parcel III)	1	1-A (Hot Plant)	10.7	12	2022	2022	NA	2024
Mine Phase 1 (Middle Survey Parcel I)		1-B (Wet Plant)		11	2023	2022	NA	2024
Mine Phase 2 (West Survey Parcel III)	2	2A		8	2028	2022	2028	2033
		2B		8	2031	2022	2031	2036
Mine Phase 3 (Middle Survey Parcel I)	3	3-A	11.4	10	2036	2022	2036	2041
		3-B		10	2041	2022	2041	2046
		3C		10	2045	2022	2045	2050
		3D		10	2048	2022	2048	2053
City of Evans - 35th Avenue Right of Way	Alt	3A - 3D		6	2048	2022	2048	2053
Mine Phase 4 (Middle Survey Parcel II)	4	4-A	11.2	10	2051	2022	2051	2056
		4-B		10	2054	2022	2054	2059
		4-C		10	2058	2022	2058	2063
		4-D		10	2062	2022	2062	2067
Total [Parcel Buffers] ----- [Mine + 35th Ave ROW] ±			33.3	125.0	Acres			
Total Affected minable area including City of Evans ROW ±					158.3	Acres		

- All mine buffers will be mowed and maintained for the duration of the mine operation and reclamation.
- We plan to combat the significant invasive, nonnative weed species on this site with the use of native plants for revegetation and reclamation.
- The Hunt Brothers property, Parcel I and II are is being annexed by the City of Evans and all three Parels will be zoned as a Heavy Industrial (I-3) area.
- Mine blocks 1A and 1B have been indentified as heavy industrial areas (I-3).
- The remaining mine blocks 2A through 4D are zoned as a heavy indusy district (I3). When an industrial use is identified for an area, the land will be developed for that industrial use. DRMS will be notified prior to industrial development.
- All remaining Mine Block areas will be reclaimed as dryland native grass pasture until the identification of an appropriate industrial use.



VICINITY MAP
SW 1/4, S36, T5N, R66W, 6th P.M.
SHOWN VICINITY MAP TAKEN FROM USGS QUAD MAPS - LA SALLE, CO

ASPHALT SPECIALTIES COMPANY, INC. ASPHALT PLANT & AGGREGATE MINE SPECIAL USE PERMIT

Part of the Southwest 1/4 of Section 36,
Township 5 North, Range 66 West of the 6th P.M.,
CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO
CURRENT ZONE: PUD
PROPOSED ZONE: I-3

SPECIAL USE PERMIT FOR:
ASPHALT SPECIALTIES COMPANY, INC.
ASPHALT PLANT & AGGREGATE MINE
NW OF WCR 35 & WCR 394
EVANS, CO 80620

PREPARED FOR:
ASPHALT SPECIALTIES COMPANY, INC.
STEVE WARD
10100 DALLAS STREET
HENDERSON, CO 80640
(303)594-1433

APPROVED BY:

LEGAL DESCRIPTION

PARCEL I:
LOT B, RECORDED EXEMPTION NO. 0959-36-03 RECX17-0197, RECORDED JANUARY 17, 2018 AT RECEPTION NO. 4368408, LOCATED IN THE W 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

PARCEL II:
LOT B, AMENDED RECORDED EXEMPTION NO. 0959-36-03 1AMREC18-85-803, RECORDED SEPTEMBER 18, 2019 AT RECEPTION NO. 4524591, LOCATED IN THE SW 4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO EXCEPT THAT PARCEL DEEDED JUNE 18, 2018 AT RECEPTION NO. 4407999

PARCEL III:
THE E 1/2 OF THE E 1/2 OF THE SE 1/4 OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, EXCEPT THAT PART OF THE E 1/2 OF THE SE 1/4 LYING SOUTH OF A LINE BEGINNING AT THE SE CORNER OF SAID SECTION 35, THENCE NORTH 00 DEGREES 00 SECONDS WEST 172.15 FEET; THENCE NORTH 86 DEGREES 00 SECONDS WEST TO THE WEST LINE OF THE E 1/2 OF THE SE 1/4 OF SAID SECTION 35, COUNTY OF WELD, STATE OF COLORADO. EXCEPTING FROM ABOVE PARCELS THE RIGHT OF WAY FOR FOR 35TH AVENUE CONTAINED IN INSTRUMENTS RECORDED DECEMBER 29, 2003 AT RECEPTION NO. 3139615, 3139614 AND JUNE 20, 2006 AT RECEPTION NO. 3397576

BASIS of BEARING & BENCHMARK

PROJECT BENCHMARK:
ALL ELEVATIONS ARE BASED UPON STATIC GPS OBSERVATIONS POST PROCESSED THROUGH THE JAVAD DATA PROCESSING ONLINE SERVICE (DPOS) RESULTING IN THE SOUTHWEST CORNER OF SECTION 36, T 5 N, R 66 W, BEING A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24607, HAVING AN ELEVATION OF 4670.83 NAVD 88 (GEOID 18)

BASIS OF BEARINGS:
ALL BEARINGS SHOWN HEREON ARE BASED UPON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE (0501) WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., IN WELD COUNTY, COLORADO BEARING NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, WITH ALL BEARINGS SHOWN HEREON RELATIVE THERETO.

REVISIONS	SHEET	INDEX
0	1	COVER SHEET
0	2	EXISTING CONDITIONS & DEMO PLAN
0	3	SITE PLAN
0	4	GRADING PLAN

0 INITIAL RELEASE JANUARY 27, 2022

HUNT BROTHERS PROPERTIES INC. **DATE**
DANIEL W. HUNT

WESTERN ENGINEERING CONSULTANTS, INC. LLC **DATE**
CHADWIN F. COX, P.E.

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CALL BEFORE
YOU DIG
1-800-922-1987
Utility Notification
Center of Colorado
Administrative Office
16001 Table Mountain Parkway, Golden,
Colorado 80403
Office: 303.232.1991 Fax: 303.234.1712
Toll Free: 1-800-922-1987
CALL 2 BUSINESS DAYS IN ADVANCE
BEFORE YOU DIG, GRADE, OR EXCAVATE
FOR THE MARKING OF UNDERGROUND
MEMBER UTILITIES.

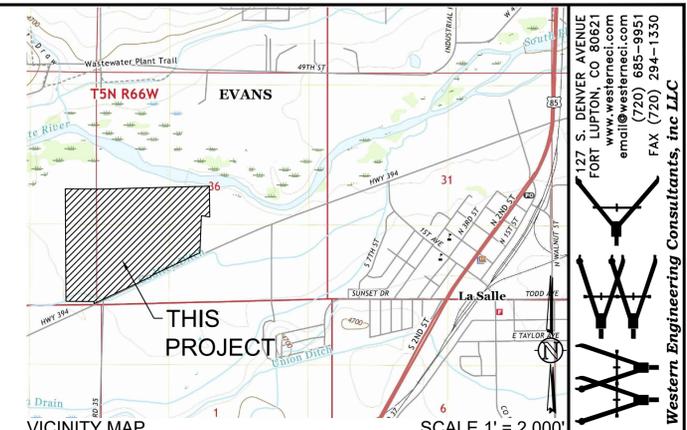
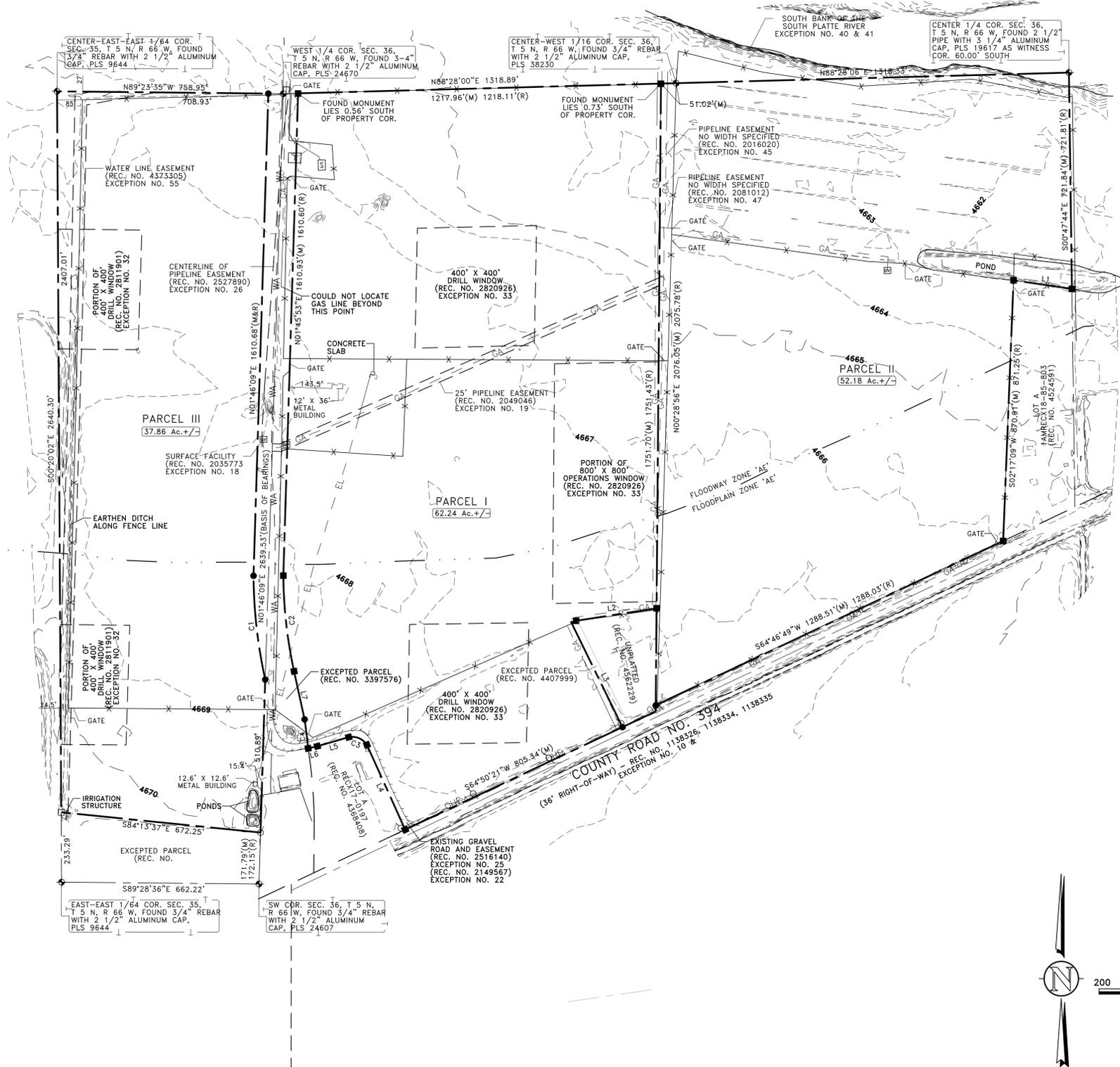
PREPARED BY:

Western Engineering Consultants, inc. LLC

WESTERN ENGINEERING CONSULTANTS, inc. LLC
127 S. DENVER AVENUE, FORT LUPTON, CO 80621
Phone: (303)913-7341, Fax: (720)294-1330, email@westerneci.com

PROJECT NO: 01-0326.004.00
INITIAL PLAN RELEASE: JANUARY 27, 2022
TOTAL SHEETS: 4

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VICINITY MAP
 SW 1/4, S36, T5N, R66W, 6th P.M.
 SHOWN VICINITY MAP TAKEN FROM USGS QUAD MAPS - LA SALLE, CO

WESTERN ENGINEERING CONSULTANTS, INC. LLC
 1227 S. LUPTON, CO 80621
 www.westerneci.com
 email@westerneci.com
 (720) 685-8951
 FAX (720) 294-1350

NOTES

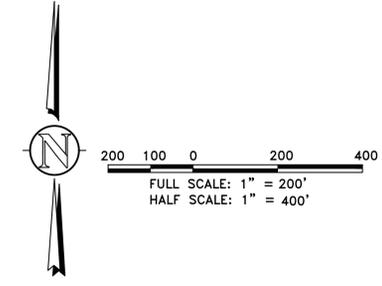
THIS PLAN IS INTENDED AS THE EXISTING CONDITIONS PLAN FOR ASPHALT SPECIALTIES - EVANS, CO.
 ALL IMPROVEMENTS ARE EXISTING.
 IT IS THE OWNER AND/OR THE CONTRACTOR'S RESPONSIBILITY TO ATTAIN ALL APPROPRIATE PERMITS AND REVIEW APPROVALS FROM THE STATE OF COLORADO AND TOWN OF KEENESBURG RESPECTIVELY.
 SEE COVER SHEET FOR BASIS OF BEARING & BENCHMARK.
 ANY REFERENCE TO EASEMENTS, SURVEY POINTS, OR EXISTING UTILITIES AND FEATURES ARE BASED SOLELY FROM SURVEY INFORMATION PROVIDED BY AMERICAN WEST LAND SURVEYING CO. - ALTA/NSPS LAND TITLE SURVEY, DATED JUNE 22, 2020.
 NOT ALL UNCC UTILITY LOCATES HAVE BEEN PERFORMED. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UTILITIES ARE LOCATED AND SURVEY PROVIDED TO THE OWNER AND ENGINEER PRIOR TO CONSTRUCTION DRAWING RELEASE.

SYMBOL LEGEND

41	45 DEG BEND	+	THRUST BLOCK TB
42	22.5 DEG BEND	x	GATE VALVE OV
43	RESTRAINED PLUG	•	CURB STOP
44	RESTRAINED TEE	○	PIPE CROSSING
45	WATER METER	⊗	MANHOLE
46	RESTRAINED CROSS	⊙	MANHOLE W/ FLOW DIRECTION
47	FIRE HYDRANT	RD	ROOF DRAIN
48	RESTRAINED VALVE		PROPOSED GRAVEL
			PROPOSED CONC
			PROPOSED ASPHALT

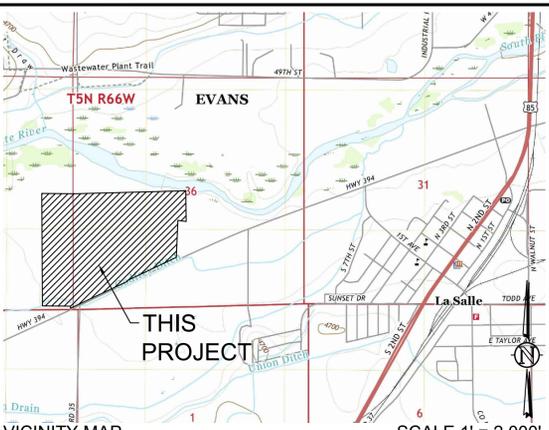
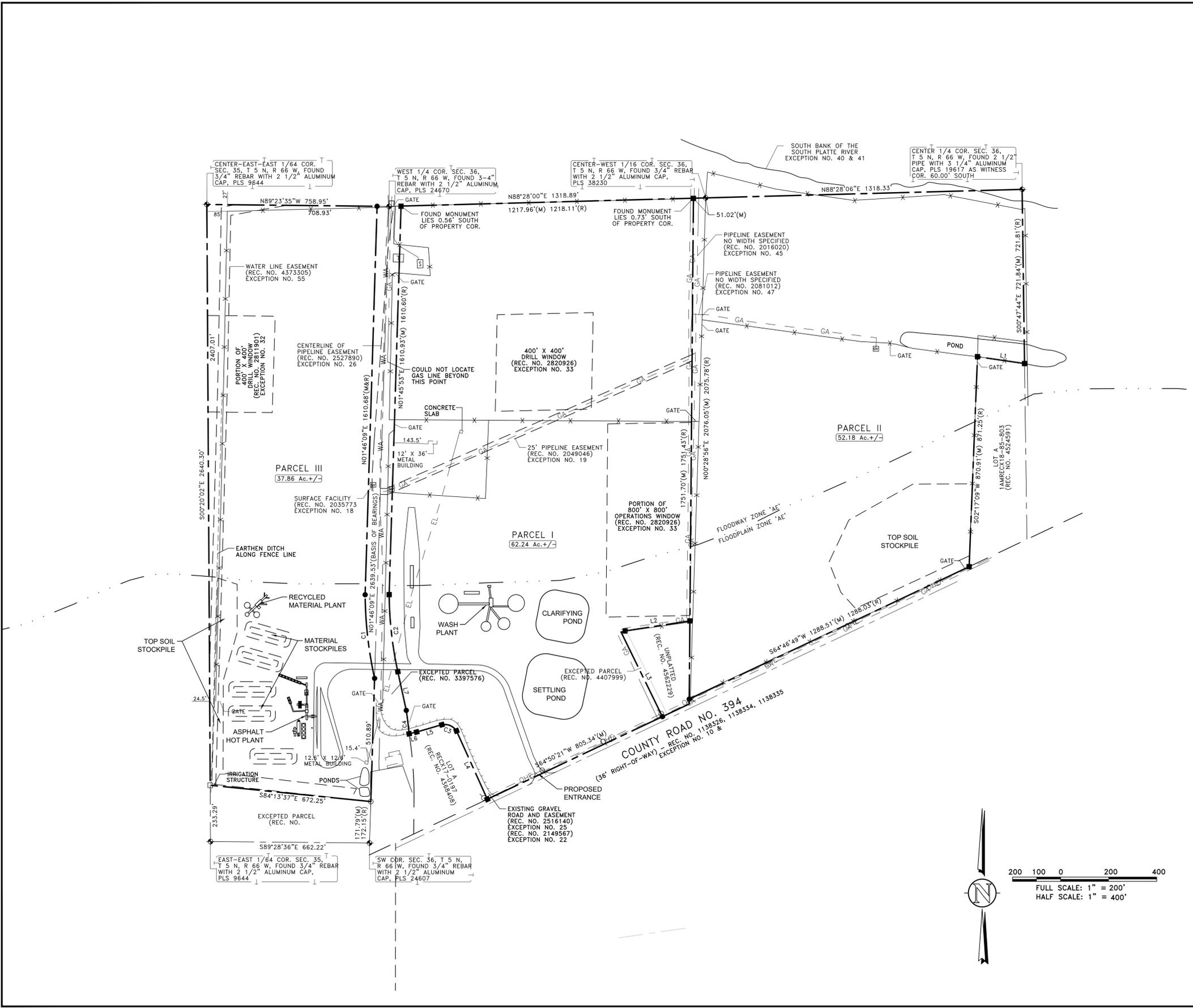
LINETYPE LEGEND

---	LOT / PROPERTY / SECTION LINE
- - - -	RIGHT OF WAY LINE
- · - · -	EASEMENT
- · - · -	SETBACK
- · - · -	TO BE ABANDONED LOT LINE
- · - · -	EXISTING BUILDING, CURB
- · - · -	EDGE OF ASPHALT OR GRAVEL RD
- · - · -	CHAINLINK FENCE
- · - · -	WIRE FENCE
- · - · -	POND WQ W/S
- · - · -	SWALE
- · - · -	EXISTING OVERHEAD ELEC
- · - · -	EXISTING ELECTRICAL LINE
- · - · -	EXISTING STORM LINE
- · - · -	EXISTING SANITARY LINE
- · - · -	EXISTING WATER LINE
- · - · -	EXISTING GAS LINE
- · - · -	EXISTING FIBER OPTIC LINE
- · - · -	EXISTING TELEPHONE LINE
- · - · -	PROPOSED SANITARY LINE
- · - · -	PROPOSED SANITARY SERVICE
- · - · -	PROPOSED STORM LINE
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- · - · -	PROPOSED WATER SERVICE
- · - · -	PROPOSED GAS LINE
- · - · -	PROPOSED ELECTRIC LINE
- · - · -	PROPOSED TELEPHONE LINE



DATE	01/27/22	BY	CFC
REVISION			
INITIAL RELEASE			
NO.			
ASPHALT SPECIALTIES COMPANY, INC. CONTACT: STEVE WARD 10100 DALLAS STREET HENDERSON, CO 80640 MOBILE (303)594-1433			
EXISTING CONDITIONS ASPHALT SPECIALTIES COMPANY, INC. CITY OF EVANS, WELD COUNTY, COLORADO			
Dig Safely. CALL UNCC THREE WORKING DAYS BEFORE YOU DIG 1-800-922-1987 www.uncc.org UTILITY NOTIFICATION CENTER OF COLORADO			
ONLY VALID FOR CONSTRUCTION IF SEAL & ORIGINAL SIGNATURE ARE ON EACH SHEET			
INITIAL PLAN RELEASE: 01/27/22 DESIGNED BY: CFC DRAWN BY: CFC CHECKED BY: CFC			
PROJECT NO. 01-0326.004.00 DOC CON # 0002-EXCON SHEET 2 OF 4			

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VICINITY MAP
 SW 1/4, S36, T5N, R66W, 6th P.M.
 SHOWN VICINITY MAP TAKEN FROM USGS QUAD MAPS - LA SALLE, CO

NOTES

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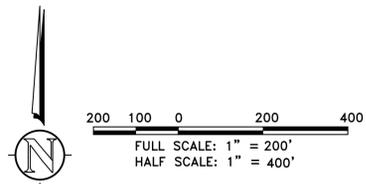
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SYMBOL LEGEND

41	45 DEG BEND	+	THRUST BLOCK	TB
42	22.5 DEG BEND	x	GATE VALVE	GV
43	RESTRAINED PLUG	o	CURB STOP	CS
44	RESTRAINED TEE	o	PIPE CROSSING	PC
45	WATER METER	o	MANHOLE	MH
46	RESTRAINED CROSS	o	MANHOLE W/ FLOW DIRECTION	MHFD
47	FIRE HYDRANT	o	ROOF DRAIN	RD
48	RESTRAINED VALVE	o	PROPOSED GRAVEL	PG
			EXISTING CONC	EC
			PROPOSED CONC	PC
			EXISTING ASPHALT	EA
			PROPOSED ASPHALT	PA

LINETYPE LEGEND

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---	PROPOSED ELECTRIC LINE
---	PROPOSED TELEPHONE LINE



WESTERN ENGINEERING CONSULTANTS, INC. LLC
 1227 S. LUTPON, CO 80621
 FORT LUTPON, CO 80621
 www.westerneci.com
 email@westerneci.com
 (720) 685-8951
 FAX (720) 294-1350

REVISION

NO.	DATE	BY	DESCRIPTION
1	01/27/22	CFC	INITIAL RELEASE

SITE PLAN
ASPHALT SPECIALTIES
COMPANY, INC.
 CITY OF EVANS, WELD COUNTY, COLORADO

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 www.uncc.org
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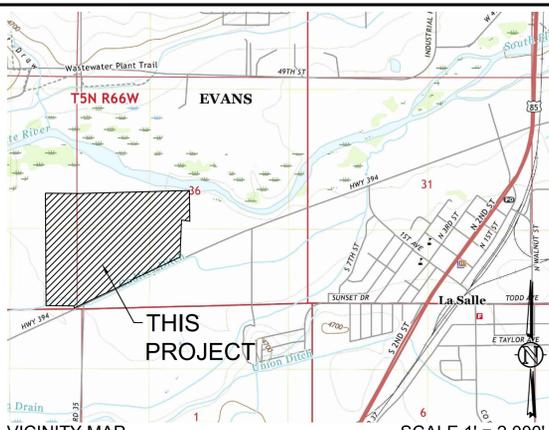
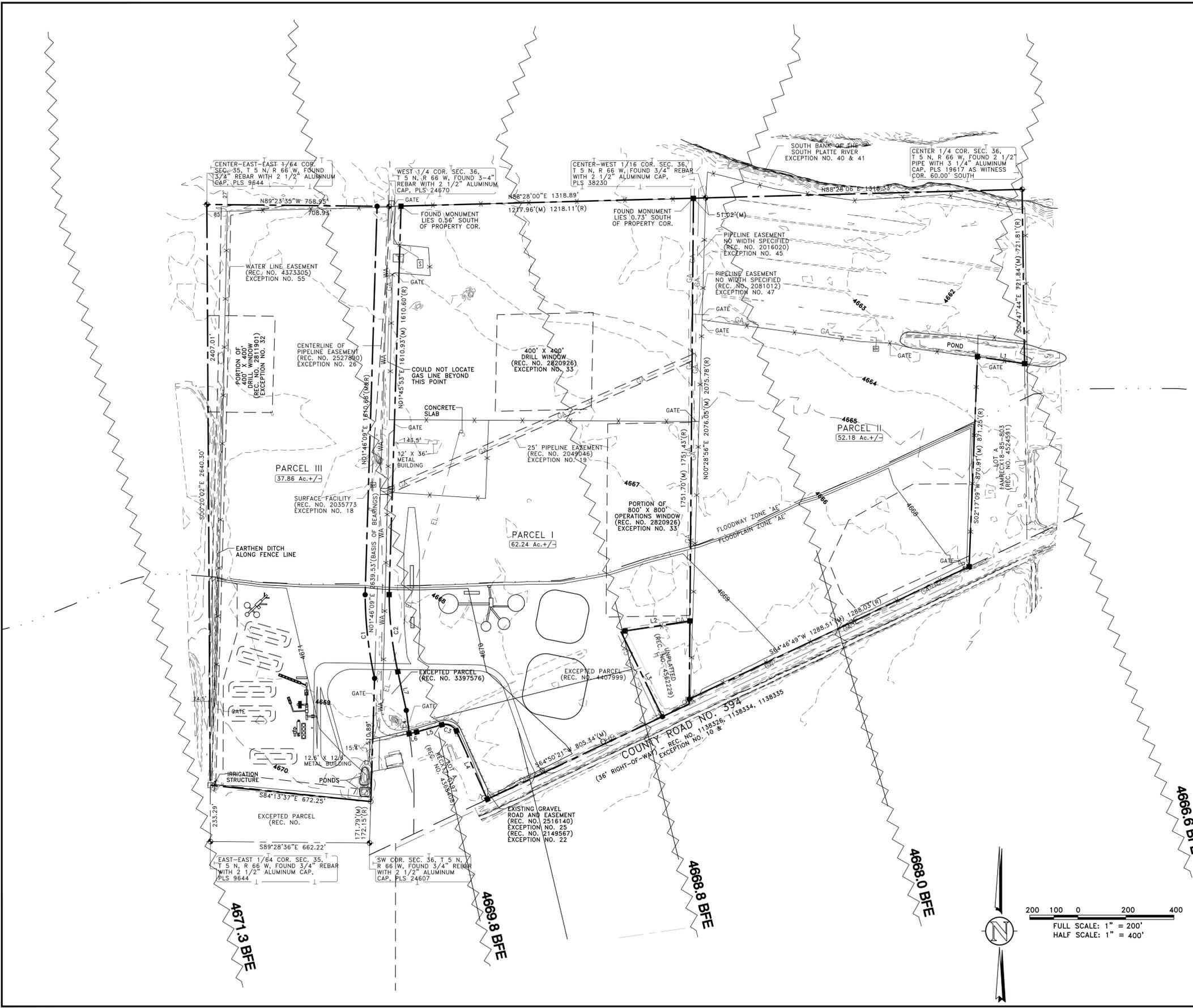
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 ARE ON EACH SHEET

INITIAL PLAN
 RELEASE: 01/27/22
 DESIGNED BY: CFC
 DRAWN BY: CFC
 CHECKED BY: CFC

PROJECT NO.
 01-0326.004.00
 DOC CON #
 0003-SITE
 SHEET
 3 OF 4

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VICINITY MAP
SW 1/4, S36, T5N, R66W, 6th P.M.
SHOWN VICINITY MAP TAKEN FROM USGS QUAD MAPS - LA SALLE, CO

NOTES

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			PROPOSED ASPHALT	PA

LINETYPE LEGEND

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- - - -	RIGHT OF WAY LINE
- . - . - .	EASEMENT
- - - - -	SETBACK
- - - - -	TO BE ABANDONED LOT LINE
- - - - -	EXISTING BUILDING, CURB
- - - - -	EDGE OF ASPHALT OR GRAVEL RD
- - - - -	CHAINLINK FENCE
- - - - -	WIRE FENCE
- - - - -	POND WQ W/S
- - - - -	SWALE
- - - - -	EXISTING OVERHEAD ELEC
- - - - -	EXISTING ELECTRICAL LINE
- - - - -	EXISTING STORM LINE
- - - - -	EXISTING SANITARY LINE
- - - - -	EXISTING WATER LINE
- - - - -	EXISTING GAS LINE
- - - - -	EXISTING FIBER OPTIC LINE
- - - - -	EXISTING TELEPHONE LINE
SA	PROPOSED SANITARY LINE
SS	PROPOSED SANITARY SERVICE
ST	PROPOSED STORM LINE
WA	PROPOSED WATER LINE
WAS	PROPOSED WATER SERVICE
GA	PROPOSED GAS LINE
EL	PROPOSED ELECTRIC LINE
T	PROPOSED TELEPHONE LINE

WESTERN ENGINEERING CONSULTANTS, INC. LLC
127 S. LUDLOW AVENUE
FORT LUDLOW, CO 80621
www.westerneci.com
email@westerneci.com
(720) 685-8951
FAX (720) 294-1330

DATE	BY	REVISION
01/27/22	CFC	INITIAL RELEASE

OVERALL GRADING PLAN
ASPHALT SPECIALTIES
COMPANY, INC.
CITY OF EVANS, WELD COUNTY, COLORADO

Dig Safely.
CALL UNCC
THREE WORKING DAYS
BEFORE YOU DIG
1-800-922-1987
www.uncc.org
UTILITY NOTIFICATION
CENTER OF COLORADO

FOR REVIEW

ONLY VALID FOR CONSTRUCTION
SCALE & WORKING STRUCTURE
SEE COVER SHEET

INITIAL PLAN
RELEASE: 01/27/22
DESIGNED BY: CFC
DRAWN BY: CFC
CHECKED BY: CFC

PROJECT NO.
01-0326.004.00
DOC CON #
0004-GRD
SHEET
4 OF 4

ALTA/NSPS LAND TITLE SURVEY

Part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 35 and the Southwest 1/4 of Section 36, Township 5 North, Range 66 West of the 6th P.M., County of Weld, State of Colorado

Sheet 1 of 3

PROPERTY DESCRIPTION:

PARCEL I:

LOT B, RECORDED EXEMPTION NO. 0959-36-03 RECX17-0197, RECORDED JANUARY 17, 2018 AT RECEPTION NO. 4368408, LOCATED IN THE W 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

PARCEL II:

LOT B, AMENDED RECORDED EXEMPTION NO. 0959-36-03 1AMREC18-85-803, RECORDED SEPTEMBER 18, 2019 AT RECEPTION NO. 4524591, LOCATED IN THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

EXCEPT THAT PARCEL DEEDED JUNE 18, 2018 AT RECEPTION NO. 4407999

PARCEL III:

THE E 1/2 OF THE E 1/2 OF THE SE 1/4 OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, EXCEPT THAT PART OF THE E 1/2 OF THE SE 1/4 LYING SOUTH OF A LINE BEGINNING AT THE SE CORNER OF SAID SECTION 35; THENCE NORTH 00 DEGREES 00 SECONDS WEST 172.15 FEET; THENCE NORTH 86 DEGREES 00 SECONDS WEST TO THE WEST LINE OF THE E 1/2 OF THE E 1/2 OF SAID SECTION 35, COUNTY OF WELD, STATE OF COLORADO.

EXCEPTING FROM ABOVE PARCELS THE RIGHT OF WAY FOR 35TH AVENUE CONTAINED IN INSTRUMENTS RECORDED DECEMBER 29, 2003 AT RECEPTION NO. 3139615, 3139614 AND JUNE 20, 2006 AT RECEPTION NO. 3397576

NOTES:

1) BASIS OF BEARING: ALL BEARINGS SHOWN HEREON ARE BASED UPON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE (0501) WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., IN WELD COUNTY, COLORADO BEARING NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, WITH ALL BEARINGS SHOWN HEREON RELATIVE THERETO.

2) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.

3) CERTIFICATION DEFINED: THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR, IN THE PRACTICE OF LAND SURVEYING, CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OF FINDINGS WHICH ARE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.

4) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTIONS BASED UPON A DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER 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.

5) ALL DISTANCES SHOWN HEREON ARE MEASURED GROUND DISTANCES REPORTED IN U.S. SURVEY FEET.

6) THE SUBJECT PROPERTY SHOWN HEREON HAS A TOTAL ACREAGE OF 152.28 ACRES, MORE OR LESS.

7) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP DATED JANUARY 20, 2016, MAP NO 050123C1728E, THE SUBJECT PROPERTY SHOWN HEREON LIES WITHIN FLOOD ZONE 'A' (SPECIAL FLOOD HAZARD AREAS WITHOUT BASE FLOOD ELEVATIONS DETERMINED) AND ZONE 'X' (AREAS OF MINIMAL FLOOD HAZARD).

8) UTILITY LOCATIONS SHOWN HEREON ARE BASED UPON FIELD EVIDENCE TOGETHER WITH UTILITY LOCATES PROVIDED BY THE UTILITY NOTIFICATION CENTER OF COLORADO, ACCURATE UNDERGROUND UTILITY LOCATING SERVICE, AND UTILITY MAPS PROVIDED BY DCP MIDSTREAM AND THE CENTRAL WELD COUNTY WATER DISTRICT.

9) SEVERAL GAS FLOW LINES AND PIPELINES WERE NOT ABLE TO BE LOCATED AS PART OF THE FIELD SURVEY AS NO SIGNAL WAS PRESENT ON THE UTILITY OR SIGNALS WERE LOST. ACCORDING TO THE PROPERTY OWNER, MANY OF THE OIL/GAS FACILITIES ON THE SUBJECT PROPERTY HAVE BEEN AND ARE IN THE PROCESS OF BEING ABANDONED.

10) ALL ELEVATIONS SHOWN HEREON ARE BASED UPON STATIC GPS OBSERVATIONS POST PROCESSED THROUGH THE JAVAD DATA PROCESSING ONLINE SERVICE (DPOS), RESULTING IN THE SOUTHWEST CORNER OF SECTION 36, T 5 N, R 66 W, BEING A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24607, HAVING AN ELEVATION OF 4670.83 NAVD 88 (GEOID 18).

11) ALL CONTOURS SHOWN HEREON ARE AT ONE FOOT INTERVALS AND ARE THE RESULT OF AERIAL MAPPING PROVIDED BY PRECISION AEROWORKS.

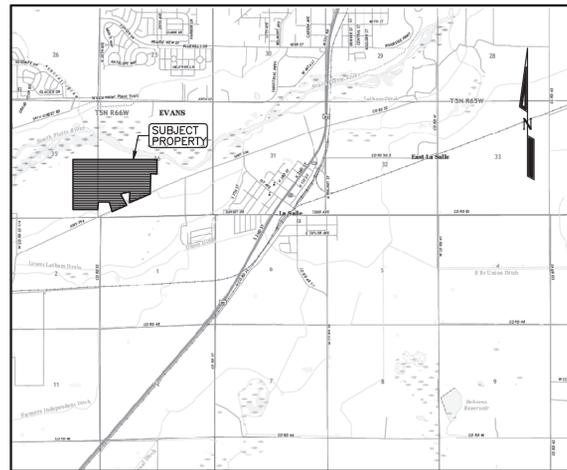
SURVEYOR'S STATEMENT:

TO: ROLLING T. LIVESTOCK, LLC, A COLORADO LIMITED LIABILITY COMPANY; ASPHALT SPECIALTIES COMPANY; LAND TITLE GUARANTEE COMPANY; OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY;

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2016 THE MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDED ITEMS 1, 3, 4, 5, 7A, B, & 11 OF TABLE A THEREOF. THE FIELD WORK FOR THIS SURVEY WAS COMPLETED ON JUNE 22, 2020.

I FURTHER CERTIFY THAT I, CURTIS D. HOOS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THIS PLAT ACCURATELY REPRESENTS SAID SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

CURTIS D. HOOS, PLS 37971
FOR AND ON BEHALF OF:
AMERICAN WEST LAND SURVEYING CO.
A COLORADO CORPORATION



VICINITY MAP: NTS

EXCEPTIONS:

AS DESCRIBED IN TITLE COMMITMENT PROVIDED BY LAND TITLE GUARANTEE COMPANY DATED APRIL 24, 2020, ORDER NO. FCC25174676:

1-7) GENERAL EXCEPTIONS.

8. RIGHT OF WAY FOR COUNTY ROADS 30 FEET ON EITHER SIDE OF SECTION AND TOWNSHIP LINES, AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS FOR WELD COUNTY, RECORDED OCTOBER 14, 1989 IN BOOK 86 AT PAGE 273. (DOES NOT AFFECT THE PROPERTY - ACCORDING TO PATENT DATES, THE SUBJECT PROPERTY WAS NOT IN THE PUBLIC DOMAIN AT THE TIME OF THIS RESOLUTION)

9. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT RECORDED OCTOBER 17, 1894, IN BOOK 51 AT PAGE 264. (DOES NOT AFFECT THE PROPERTY)

10. RIGHT OF WAY EASEMENT AS GRANTED TO THE STATE OF COLORADO IN INSTRUMENT RECORDED SEPTEMBER 15, 1952, IN BOOK 1339 AT PAGE 633 (SHOWN ON THE SURVEY)

11. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED MARCH 4, 1959 IN BOOK 1526 AT PAGE 39 AND 41 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

12. RIGHT OF WAY EASEMENT AS GRANTED TO CENTRAL WELD COUNTY WATER DISTRICT IN INSTRUMENT RECORDED MAY 19, 1967, UNDER RECEPTION NO. 1503608 (DOES NOT AFFECT THE PROPERTY)

13. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT AND EASEMENT RECORDED JUNE 16, 1972 AT RECEPTION NO. 1591778 (DOES NOT AFFECT THE PROPERTY)

14. OIL AND GAS LEASE RECORDED OCTOBER 21, 1982 UNDER RECEPTION NO. 1907065 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

15. OIL AND GAS LEASE RECORDED APRIL 06, 1983 UNDER RECEPTION NO. 1922656 IN BOOK 992 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (DOES NOT AFFECT THE PROPERTY)

WELLBORE SPECIFIC DECLARATION OF POOLING RECORDED MAY 13, 2015 UNDER RECEPTION NO. 4088896

16. OIL AND GAS LEASE RECORDED SEPTEMBER 29, 1983 UNDER RECEPTION NO. 1942031 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (NOES NOT AFFECT THE PROPERTY)

17. OIL AND GAS LEASE RECORDED DECEMBER 13, 1985 UNDER RECEPTION NO. 2035750 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

DECLARATION OF POOLING AND UNITIZATION RECORDED APRIL 24, 2014 UNDER RECEPTION NO. 4011449.

18. OIL AND GAS LEASE RECORDED DECEMBER 13, 1985 UNDER RECEPTION NO. 2035773 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - WELLS AND TANK BATTERIES HAVE BEEN REMOVED FROM THE PROPERTY)

WELLBORE SPECIFIC DECLARATION OF POOLING RECORDED MAY 4, 2010 UNDER RECEPTION NO. 3691124.

19. RIGHT OF WAY EASEMENT AS GRANTED TO ASSOCIATED NATURAL GAS, INC. IN INSTRUMENT RECORDED APRIL 07, 1986, UNDER RECEPTION NO. 2049046. (AFFECTS SECTION 35 AND 36)

20. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED JUNE 02, 1986 AT RECEPTION NO. 1055554 IN BOOK 1114. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

21. RIGHT OF WAY EASEMENT AS GRANTED TO ASSOCIATED NATURAL GAS, INC. IN INSTRUMENT RECORDED APRIL 12, 1986, UNDER RECEPTION NO. 2137583 (DOES NOT AFFECT THE PROPERTY)

22. RIGHT OF WAY EASEMENT AS GRANTED TO ELK EXPLORATION IN INSTRUMENT RECORDED JULY 27, 1988, UNDER RECEPTION NO. 2149567 (SHOWN ON THE SURVEY)

23. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED AUGUST 23, 1994 AT RECEPTION NO. 2403621 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. AFFECTS THE PROPERTY - NOT PLOTTABLE)

24. RIGHT OF WAY EASEMENT AS GRANTED TO ASSOCIATED NATURAL GAS INC IN INSTRUMENT RECORDED NOVEMBER 23, 1994, UNDER RECEPTION NO. 2416511 IN BOOK 1468. (DOES NOT AFFECT THE PROPERTY)

25. RIGHT OF WAY EASEMENT AS GRANTED TO GETTY OIL AND GAS CORP IN INSTRUMENT RECORDED OCTOBER 17, 1996, UNDER RECEPTION NO. 2516140 (SHOWN ON THE SURVEY)

26. RIGHT OF WAY EASEMENT AS GRANTED TO PANENERGY FIELD SERVICES IN INSTRUMENT RECORDED JANUARY 06, 1997, UNDER RECEPTION NO. 2527890 (SHOWN ON THE SURVEY)

27. RIGHT OF WAY EASEMENT AS GRANTED TO DUKE ENERGY FIELD SERVICES INC IN INSTRUMENT RECORDED JULY 22, 1998, UNDER RECEPTION NO. 2627623. (DOES NOT AFFECT THE PROPERTY)

EXCEPTIONS CONTINUED:

28. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED JANUARY 7, 1999 AT RECEPTION NO. 2665464 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

29. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEEDS RECORDED JULY 9, 1999 AT RECEPTION NOS. 2705616, 2705617, 2705618, 2705619, 2705620, 2705621, 2705622, 2705623, 2705624, 2705625, 2705626, 2705627, 2705628 AND 2705629 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (DOES NOT AFFECT THE PROPERTY)

30. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED SEPTEMBER 17, 1999 AT RECEPTION NO. 2721283 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

31. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED MARCH 10, 2000 AT RECEPTION NO. 2754792 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

32. NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE IN INSTRUMENT RECORDED DECEMBER 07, 2000 UNDER RECEPTION NO. 2811901 (SHOWN ON THE SURVEY)

33. TERMS, CONDITIONS AND PROVISIONS OF NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE RECORDED JANUARY 23, 2001 AT RECEPTION NO. 2820926. (SHOWN ON SURVEY)

34. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED FEBRUARY 2005 AT RECEPTION NO. 3258855 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

35. REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT AS EVIDENCED BY INSTRUMENT RECORDED OCTOBER 15, 2007 UNDER RECEPTION NO. 3511023. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

36. REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT AS EVIDENCED BY INSTRUMENT RECORDED DECEMBER 21, 2007 UNDER RECEPTION NO. 3525268. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

37. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED JULY 27, 2009 AT RECEPTION NO. 3638592 (AFFECTS THE PROPERTY - NOT PLOTTABLE)

38. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT AS EVIDENCED BY INSTRUMENT RECORDED SEPTEMBER 29, 2010, UNDER RECEPTION NO. 3721790. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

39. RIGHT OF WAY EASEMENT AS GRANTED TO SORIN NATURAL RESOURCE PARTNERS, LLC IN INSTRUMENT RECORDED MAY 17, 2017, UNDER RECEPTION NO. 4302974 (DOES NOT AFFECT THE PROPERTY)

40. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY IN FAVOR OF THE PUBLIC WHICH MAY EXIST OVER THAT PORTION OF SAID LAND LYING BENEATH THE WATER OF THE SOUTH PLATTE RIVER. (SHOWN ON THE SURVEY)

41. ANY INCREASE OR DECREASE IN THE AREA OF THE LAND AND ANY ADVERSE CLAIM TO ANY PORTION OF THE LAND WHICH HAS BEEN CREATED BY OR CAUSED BY ACCRETION OR RELICTION, WHETHER NATURAL OR ARTIFICIAL; AND THE EFFECT OF THE GAIN OR LOSS OF AREA BY ACCRETION OR RELICTION UPON THE MARKETABILITY OF THE TITLE OF THE LAND. (SHOWN ON THE SURVEY)

42. ENCROACHMENTS AND RIGHT OF WAY FOR THE SOUTH PLATTE RIVER AS DISCLOSED BY MAPS MAINTAINED BY THE WELD COUNTY ASSESSORS OFFICE. (SHOWN ON THE SURVEY)

NOTE: THE FOLLOWING NOTICES PURSUANT TO CRS 9-1.5-103 CONCERNING UNDERGROUND FACILITIES HAVE BEEN FILED WITH THE CLERK AND RECORDER. THESE STATEMENTS ARE GENERAL AND DO NOT NECESSARILY GIVE NOTICE OF UNDERGROUND FACILITIES WITHIN THE SUBJECT PROPERTY:

(A) MOUNTAIN BELL TELEPHONE COMPANY, RECORDED OCTOBER 1, 1981 AT RECEPTION NO. 1870705.

(B) WESTERN SLOPE GAS COMPANY, RECORDED MARCH 9, 1983 AT RECEPTION NO. 1919757.

(C) ASSOCIATED NATURAL GAS, INC., RECORDED JULY 20, 1984 AT RECEPTION NO. 1974810 AND RECORDED OCTOBER 1, 1984 AT RECEPTION NO. 1983584 AND RECORDED MARCH 3, 1988 AT RECEPTION NO. 2132709 AND RECORDED APRIL 10, 1989 AT RECEPTION NO. 2175917.

(D) PANHANDLE EASTERN PIPE LINE COMPANY, RECORDED OCTOBER 1, 1981 AT RECEPTION NO. 1870756 AND RECORDED JUNE 26, 1989 AT RECEPTION NO. 2059722.

(E) COLORADO INTERSTATE GAS COMPANY, RECORDED AUGUST 31, 1984 AT RECEPTION NO. 1979784.

(F) UNION RURAL ELECTRIC ASSOCIATION, INC., RECORDED OCTOBER 5, 1981 AT RECEPTION NO. 1871004.

(G) WESTERN GAS SUPPLY COMPANY, RECORDED APRIL 2, 1985 AT RECEPTION NO. 2004300.

(H) THE SERVICE COMPANY OF COLORADO, RECORDED NOVEMBER 9, 1981 AT RECEPTION NO. 1874084.

(I) ST. VRAIN SANITATION DISTRICT, RECORDED DECEMBER 14, 1988 AT RECEPTION NO. 2164975.

(J) LEFT HAND WATER DISTRICT, RECORDED AUGUST 28, 1990 AT RECEPTION NO. 2224977.

(K) UNITED POWER, INC., RECORDED JANUARY 24, 1991 AT RECEPTION NO. 2239296.

(L) WIGGINS TELEPHONE ASSOCIATION RECORDED OCTOBER 14, 1992 AT RECEPTION NO. 2306829.

43. RIGHT OF WAY EASEMENT AS GRANTED TO WELD COUNTY IN INSTRUMENT RECORDED SEPTEMBER 15, 1952, IN BOOK 1339 AT PAGE 642. (SHOWN ON THE SURVEY)

44. OIL AND GAS LEASE RECORDED JUNE 11, 1985 UNDER RECEPTION NO. 2012984 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

DECLARATION OF POOLING RECORDED APRIL 24, 2014 UNDER RECEPTION NO. 4011449 AND AMENDMENT RECORDED OCTOBER 14, 2016 UNDER RECEPTION NO. 4243851.

45. RIGHT OF WAY EASEMENT AS GRANTED TO NATURAL GAS ASSOCIATES IN INSTRUMENT RECORDED JULY 08, 1985, UNDER RECEPTION NO. 2016020. (SHOWN ON THE SURVEY)

46. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF RECORDED EXEMPTION NO. 0959-36-3-REB03 RECORDED NOVEMBER 13, 1985 UNDER RECEPTION NO. 2032075. (SHOWN ON SURVEY)

47. RIGHT OF WAY EASEMENT AS GRANTED TO NATURAL GAS ASSOCIATES, INC. IN INSTRUMENT RECORDED DECEMBER 17, 1986, UNDER RECEPTION NO. 2081012. (SHOWN ON THE SURVEY)

48. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED OCTOBER 2, 1989 AT RECEPTION NO. 2193475 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

49. RIGHT OF WAY EASEMENT AS GRANTED TO SNYDER OIL CORPORATION IN INSTRUMENT RECORDED JULY 07, 1995, UNDER RECEPTION NO. 2445647. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

50. RIGHT OF WAY EASEMENT AS GRANTED TO SNYDER OIL CORPORATION IN INSTRUMENT RECORDED JULY 07, 1995, UNDER RECEPTION NO. 2445648. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

51. ROAD RIGHT OF WAY AS RESERVED IN DEED RECORDED DECEMBER 23, 2003 AT RECEPTION NO. 3138232. (DOES NOT AFFECT THE PROPERTY - THE PROPERTY WAS RECONFIGURED BY AMREC18-85-803 WHICH ALLOWS ROAD AND ACCESS TO FALL ENTIRELY WITHIN LOT A OF 1AMREC18-85-803)

52. ENCROACHMENTS AND RIGHT OF WAY FOR THE ROAD TO OIL AND GAS WELL AND OIL AND GAS WELL LOCATED UPON SUBJECT PROPERTY AS DISCLOSED BY MAPS MAINTAINED BY THE WELD COUNTY ASSESSORS OFFICE. (SHOWN ON SURVEY)

53. THE RIGHTS OF ACCESS TO AND FROM THE PREMISES AFFORDED BY THIS POLICY IS INSURED AS LONG AS ALL PARCELS THAT COMPRISE SAID PREMISES REMAIN IN COMMON OWNERSHIP. (ACCESS ROAD IS SHOWN ON THE SURVEY)

54. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING FACTS SHOWN ON IMPROVEMENT LOCATION CERTIFICATE CERTIFIED AUGUST 14, 2017 PREPARED BY KING SURVEYORS, JOB #20170559. SAID DOCUMENT STORED AS OUR ESI 34074689. (SHOWN ON THE SURVEY)

A) FENCE LINES DO NOT COINCIDE WITH PROPERTY LINES (SHOWN ON SURVEY)

55. TERMS, CONDITIONS AND PROVISIONS OF EASEMENT DEED AND AGREEMENT RECORDED FEBRUARY 06, 2018 AT RECEPTION NO. 4373305. (SHOWN ON SURVEY)

56. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF EXEMPTION RECORDED JANUARY 17, 2018 UNDER RECEPTION NO. 4368408. (SHOWN ON SURVEY)

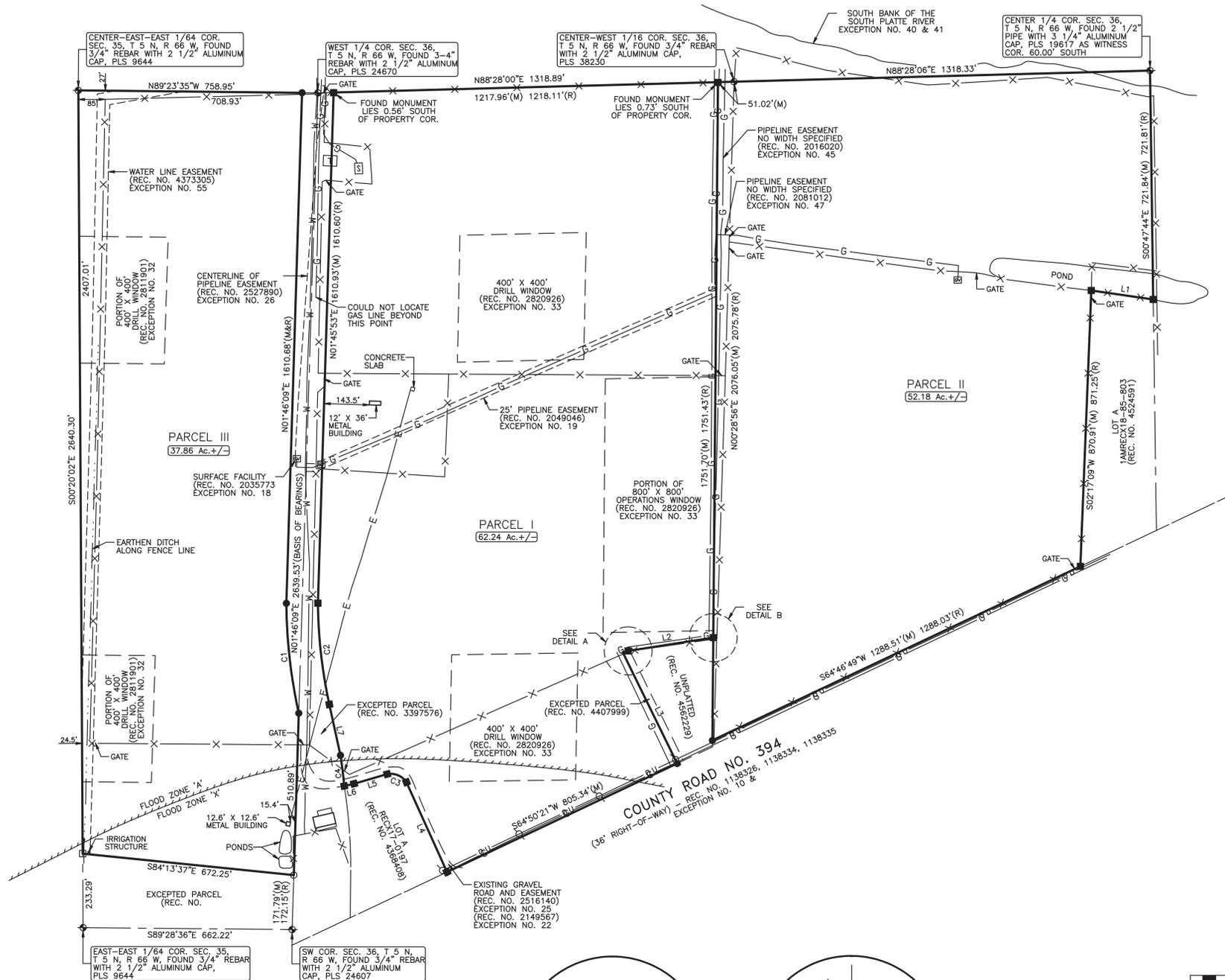
57. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF EXEMPTION RECORDED SEPTEMBER 18, 2019 UNDER RECEPTION NO. 4524591. (SHOWN ON SURVEY)

American West Land Surveying Co. A Colorado Corporation
PO Box 129, Brighton, CO 80601 * P:303-659-1532 F:303-655-0575 * amwestllc.com
SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: JUNE 22, 2020
REVISIONS:
JOB NO: 20-262

ALTA/NSPS LAND TITLE SURVEY

Part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 35 and the Southwest 1/4 of Section 36, Township 5 North, Range 66 West of the 6th P.M., County of Weld, State of Colorado

Sheet 2 of 3



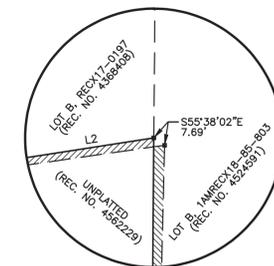
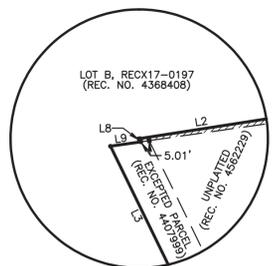
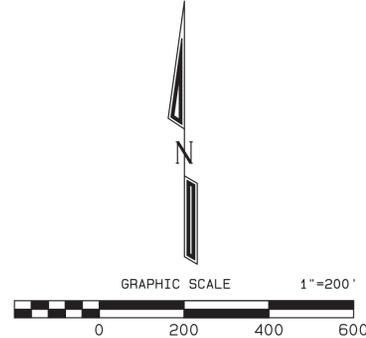
LEGEND:

- ◆ = ALIQUOT MONUMENT, AS NOTED.
- = SET 5/8" X 24" REBAR WITH 2" ALUMINUM CAP, PLS 37971.
- = FOUND 1/2" REBAR WITH YELLOW PLASTIC CAP, PLS 24307.
- ⊠ = FOUND 5/8" REBAR WITH 2" ALUMINUM CAP, PLS 9644.
- = FOUND 1/2" REBAR.
- = FOUND 6" STEEL POST UP 60".
- ∩ = OVERHEAD UTILITY POLE.
- ⊞ = OIL/GAS VALVE STRUCTURE.
- ⊞ = TANK BATTERY.
- ⊞ = SEPERATOR.
- X—X— = FENCE LINE.
- U—U— = OVERHEAD UTILITY LINE.
- G—G— = GAS LINE.
- W—W— = WATER LINE.
- / — / — = FLOODPLAIN BOUNDARY, AS NOTED.
- (M) = AS MEASURED BY THIS SURVEY.
- (R) = MEASUREMENT OF RECORD.
- ▨ = FOUND MONUMENTED GAP BETWEEN LOT B, RECX17-0197 AND REC. NO. 4562229, AS NOTED.
- ▨ = FOUND MONUMENTED OVERLAP BETWEEN LOT B, 1AMRECX18-85-803 AND REC. NO. 4562229, AS NOTED.

LINE	BEARING	DISTANCE
L1	N81°44'31"W	197.96'(M) 197.79'(R)
L2	S81°11'33"W	272.90'(M) 273.00'(R)
L3	S26°08'24"E	390.69'(M) 390.69'(R)
L4	N24°23'12"W	311.13'(M) 311.35'(R)
L5	S73°52'52"W	109.42'(M) 109.45'(R)
L6	S77°07'49"W	31.94'(M) 32.05'(R)
L7	N12°23'53"W	164.32'(M) 164.32'(R)
L8	S26°44'39"E	2.08'
L9	S81°52'09"W	18.12'

LINE	RADIUS	ARC	DELTA	CHORD BEARING	CHORD
C1	1650.00'	349.41'	12°07'59"	N06°28'25"W	348.75'
C2	1550.00'	322.09'	11°54'21"	N06°26'43"W	321.51'
C3	59.34'	70.13'	67°42'44"	N67°15'25"W	66.12'
C4	1650.00'	97.51'	03°23'10"	N06°58'13"W	97.50'

NOTE: C3 AND C4 ARE NON-TANGENT CURVES

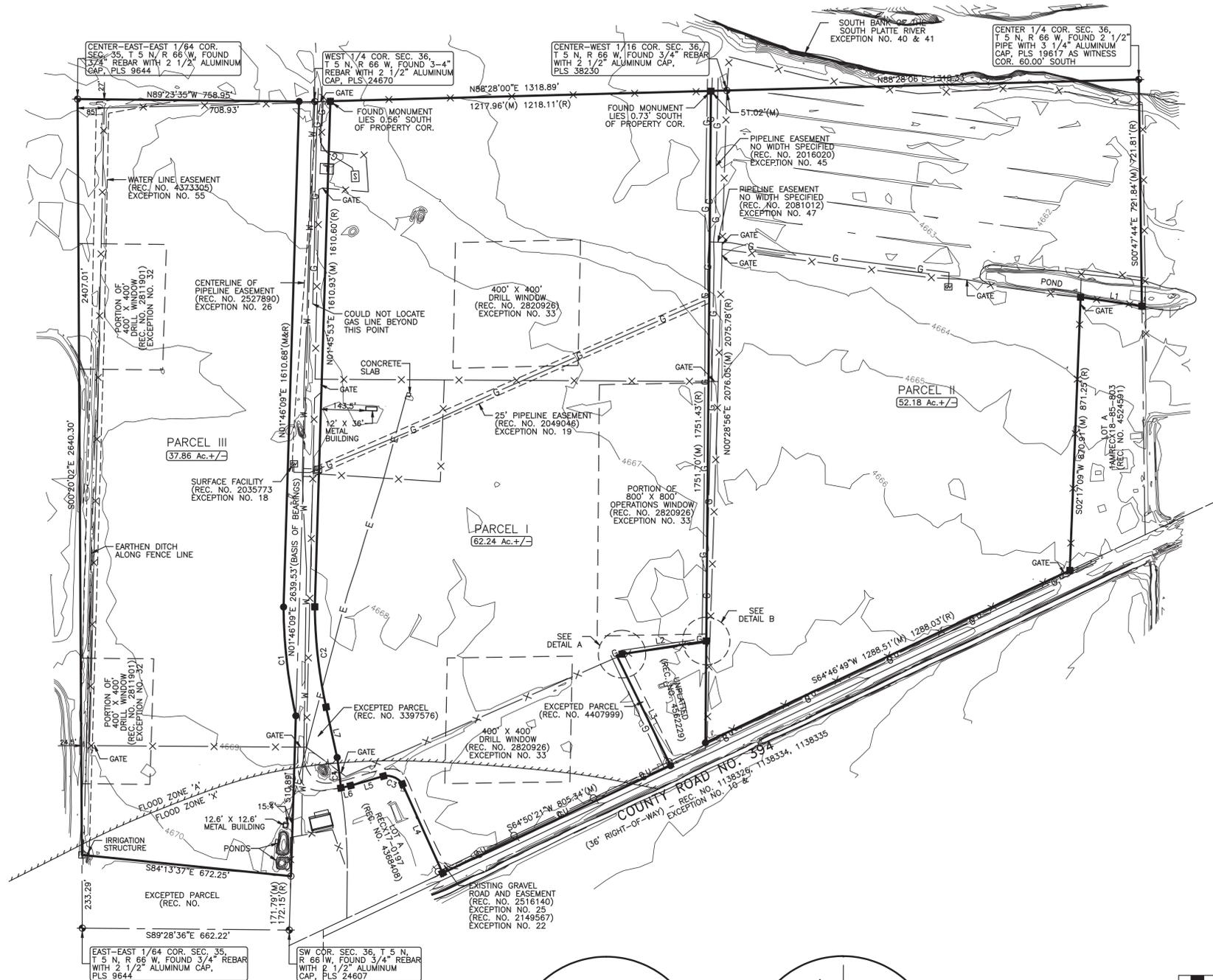


American West Land Surveying Co.
A Colorado Corporation
PO Box 129, Brighton, CO 80601 • P:303-659-1532 F:303-655-0575 • amwestls.com
SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: JUNE 22, 2020
REVISIONS:
JOB NO: 20-262

ALTA/NSPS LAND TITLE SURVEY

Part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 35 and the Southwest 1/4 of Section 36, Township 5 North, Range 66 West of the 6th P.M., County of Weld, State of Colorado

Sheet 3 of 3



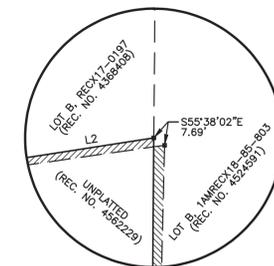
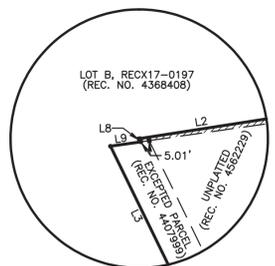
LEGEND:

- ◆ = ALIQUOT MONUMENT, AS NOTED.
- = SET 5/8" X 24" REBAR WITH 2" ALUMINUM CAP, PLS 37971.
- = FOUND 1/2" REBAR WITH YELLOW PLASTIC CAP, PLS 24307.
- ⊠ = FOUND 5/8" REBAR WITH 2" ALUMINUM CAP, PLS 9644.
- = FOUND 1/2" REBAR.
- = FOUND 6" STEEL POST UP 60".
- ⊕ = OVERHEAD UTILITY POLE.
- ⊞ = OIL/GAS VALVE STRUCTURE.
- ⊞ = TANK BATTERY.
- ⊞ = SEPARATOR.
- X—X— = FENCE LINE.
- U—U— = OVERHEAD UTILITY LINE.
- G—G— = GAS LINE.
- W—W— = WATER LINE.
- / — / — = FLOODPLAIN BOUNDARY, AS NOTED.
- (M) = AS MEASURED BY THIS SURVEY.
- (R) = MEASUREMENT OF RECORD.
- ▨ = FOUND MONUMENTED GAP BETWEEN LOT B, RECX17-0197 AND REC. NO. 4562229, AS NOTED.
- ▨ = FOUND MONUMENTED OVERLAP BETWEEN LOT B, 1AMRECX18-85-803 AND REC. NO. 4562229, AS NOTED.

LINE	BEARING	DISTANCE
L1	N81°44'31"W	197.96'(M) 197.79'(R)
L2	S81°11'33"W	272.90'(M) 273.00'(R)
L3	S26°08'24"E	390.69'(M) 390.69'(R)
L4	N24°23'12"W	311.13'(M) 311.35'(R)
L5	S73°52'52"W	109.42'(M) 109.45'(R)
L6	S77°07'49"W	31.94'(M) 32.05'(R)
L7	N12°23'53"W	164.32'(M) 164.32'(R)
L8	S26°44'39"E	2.08'
L9	S81°52'09"W	18.12'

LINE	RADIUS	ARC	DELTA	CHORD BEARING	CHORD
C1	1650.00'	349.41'	12°07'59"	N06°28'25"W	348.75'
C2	1550.00'	322.09'	11°54'21"	N06°26'43"W	321.51'
C3	59.34'	70.13'	67°42'44"	N67°15'25"W	66.12'
C4	1650.00'	97.51'	03°23'10"	N06°58'13"W	97.50'

NOTE: C3 AND C4 ARE NON-TANGENT CURVES



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SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: JUNE 15, 2020
REVISIONS:
JOB NO: 20-262

AGENDA

Planning Commission Public Hearing – Work Session

Tuesday, March 22, 2022 at 6:00 pm

Evans Community Complex, City Council Chambers, 1100 37th Street

PLANNING COMMISSION PUBLIC HEARING AND WORK SESSION

1. **CALL TO ORDER: 6:00 pm**

2. **ROLL CALL:**

Chairman: Kalen Myers - present
Vice-Chairman: Mark LeClere - present
Commissioners: Billy Castillo – not present
David Woolman - present
Sheila Ann Farley - present

3. **APPROVAL OF THE MINUTES: 2/22/2022: 6:00 pm**

****Motion/Vote: Motion by Commissioner LeClere, seconded by Commissioner Woolman, all voted in favor, motion carried.**

4. **PUBLIC HEARING: 6:01 pm**

• **Hunt Brothers Properties Zoning of two parcels, 22-COZ-02: 6:01 pm**

- Presentation from Anne Best-Johnson, Community Development Director for Planning Commission to consider the zoning of two parcels.
- SPO Notice 1/12/2022, Published Notice in Greeley Tribune 2/4/2022, Sign posted 1/21/2022. Public hearings: Planning Commission 3/22/2022, City Council 4/3/2022.
 - Error On presentation slide, PC 3/22, not Zoning Board, and City council 4/3, not 3/17.
- Applicant is looking to change current zone from Agriculture in Weld County if Council approves the annexation, to Industrial 3, since that is the only area to allow natural resource extraction, and it is in a Floodplain and Floodway. It is not a densely populated area.
 - As the property in the Floodway is released from the State Division of Reclamation, Mining and Safety bond, that portion of the property will automatically be reverted back to Agricultural zoning.
 - As the property in the Floodplain is released from the State Division of Reclamation, Mining and Safety bond, the City would work with the applicant to determine the most appropriate zone district.
 - Staff concludes that the Change of Zone, should Council approve the annexation, staff has found the criteria for approval have been met as illuminated in the packet material.
- Commissioner Woolman asks that the criteria for the approval have been met, does that indicate that every single has been met, a single criteria, or what is the extent of that?
 - Anne answers that in the application materials and staff report, the staff has found through the referral process as well as our internal development review process, that the criteria on slide have been met either through findings of

- staff, or through the conditions of approval and development standards in the packet that the applicant would have to meet.
- The North front range is a growing community, and we need construction materials for roads, bridges, houses, sidewalks and schools and the best place to locate construction materials is in a growing area, which Evans is. It may also contribute to keeping development related costs lower than hauling materials from offsite.
 - Colorado Revised Statute, section 34.1.305 illustrates the state’s recognition of the importance of preserving reserves of commercial mineral deposits for extraction.
- Chair Myers asks how I-3 works logistically from an enforcement perspective, what if the property sells, what prevents another heavy industrial use coming in that isn’t a gravel mining?
 - Anne answers that it boils down to a few things. On any recorded documents, it will be listed on the Change of Zone Platte, in the Development Agreement, in the hearing minutes and in staff’s report. The change of zone plat will be recoded with the county and will show up in title work so it will show a restriction on the land use to just natural resources/extraction.
 - Chair Myers asks what triggers the automatic reverting from a process perspective?
 - Anne answers that once the applicant provides us with information from the State Division of Reclamation Mining and safety, that the area in the Floodway has been released from their reclamation bond, that’s when the City staff would revert that change of zone back to Agriculture.
 - Chair Myers asks if this is the only gravel mining that Evans has? Is this the first application of its kind to come through?
 - Anne answers so far, yes. There was other gravel mining contemplated through the planning process. About 10-20 years ago Evans did a lot of annexations South of the river. There are not any active mines in the City right now.
 - Chair Myers asks you used the term “paper process” earlier for Change of Zone, can you explain what you meant by that?
 - Anne answers that the act of changing a zone doesn’t result in a land use. It is an activity that is on paper only. The use that is contemplated in that zone district could be utilized, but there would need to be a Site plan, or a Special Use Permit process and those processes allow dirt to be moved and structures to be constructed.
 - Chair Myers follows up with it is a pre-requisite to the land use?
 - Anne answers yes.
 - Commissioner Woolman asks if it is currently zoned to be open space, or is it river habitat?
 - Anne answers right now it is in un-incorporated Weld County, and it is zoned Agriculture.
 - Commissioner LeClere asks for this particular site, will there be or has there been a study on if there any protected species that would be displaced or destroyed?
 - Anne answers that Colorado Parks and Wildlife was the referral agency and they provided a referral that they had no concerns. They do want the applicant to continue to work with them as they open their mining operation.

- Commissioner Woolman asks a question about reclamation. What does that look like? Mining is removing material, not putting material back. When we talk about changing from I-3 to anything else, what does the value really look like?
 - Anne answers that the applicant will be able to answer those questions, but the act of mining includes taking off the topsoil, stockpiling the topsoil and seeding it to protect for reclamation purposes.
- Applicant, Steve Ward with Asphalt Specialties is present and presenting a slideshow that gives an overview of what the eventual use will be. The value is in the material that is below the surface, so they don't want the full use of the I-3 zoning.
- Steve does not anticipate anything more than a wash plant on these two parcels and mining. A wash plant is just a conveyor with some sprayers.
- About 60% of this site is Floodway. All the mining activity and vast majority of the piles are going to be down in the mine, so from the street, you will not be able to see much of the aggregate. This is a 30–40-year project, so it will not be aggressive mining. Mining will move progressively to the East over time.
- Asphalt Specialties has submitted an access permit application with Weld County, and it is to propose to move the access point further East. The agreement has been signed and is going to the Board of Commissioners.
- This is a heavy regulated industry for environmental impacts and must comply with multiple state agencies as well as the county.
- Asphalt is the most recycled material in the United States by weight and volume and there is a need for sand and gravel to build the roads in Northern Colorado.
- Steve explains the Firestone plant would be relocating to this site.
- Commissioner LeClere asks that in the processing of this there is burning, and it burns clean. Are there associated smells with the burning?
 - Steve answers that he isn't going to say it doesn't emit odors. There is a bag house that catches the particulates and emissions from the plant and scrubs them before releasing them back into the air.
- Commissioner LeClere asks what is processing?
 - Steve answers that there is a lot to it but making asphalt is processing aggregates. It is larger aggregates that get processed into smaller sizes, and it processes until you get the size that you want. Then there is also cleaning it. There is a wash plant with a conveyor that sprays water to clean.
- Commissioner LeClere asks so you basically have a physical component and a chemical to clean processing?
 - Steve answers that the only time you have chemical component is in the plant itself. In the screening of aggregate materials coming out of the ground is a mechanical process.
- Commissioner LeClere asks if there is a capture of toxic waste since it is in the Floodplain?
 - Steve answers we do not use toxic chemicals in the processing of aggregates. All it is a physical process and then a washing process. The only chemical is the asphalt oil that gets mixed in the burner and that is stored in tanks. It cannot be stored outside since it hardens so quickly. The chemicals we use are heavily regulated.
- Commissioner LeClere asks about the outdoor storage, what is being stored there?
 - It essentially aggregates, sand and gravel.
- Commissioner Woolman asks how much water does washing aggregates take?

- Steve answers that he doesn't have an answer for that. He knows that it takes water and will have to have a water use plant and an augmentation plant since it is heavily regulated.
- Chair Myers asks for a point of clarification, will the water be trucked in the water or bringing in the water? Is there a water meter? Has that been determined?
 - Steve says that it hasn't been determined and are talking to the City about buying water. A lot of water is used, but it won't be polluted.
- Commissioner Woolman asks if the water can be reused after it is used to wash? Any way to recycle the water?
 - Steve answers that he isn't aware of recycling water due to legal issues. There is a discharge permit we must have if we use water from the stream, it must be put back in a certain condition. The water consumption, augmentation and cleaning discharge are heavily regulated.
- Commissioner Woolman asks, when you talk about augmentation, can you explain what you mean by that?
 - Steve says that if we are using water from a source and use more than we put back and that source require it would be augmented, we must buy it from somewhere else to replace what we consume.
- Commissioner Woolman asks that it was said there wouldn't be heavy mining, what is the difference? Explaining that this would be visibly low and heavy mining wasn't removing all the material at once is what you were alluding to? Is it the speed that you remove the aggregate?
 - Steve answers that it is a 30–40-year plan to mine this out. It will not be an aggressive mining operation like others seen. Our plans are to progressively mine from West to East. This is a lot of material for a company our size.
- Commissioner Woolman follows up asking then you are a smaller company by standards?
 - Steve says he wouldn't say they are small, but they are not as big as other companies that are huge.
- Commissioner Woolman asks that this plant is being moved from Firestone, is that because you completed the mining operation?
 - Steve said no, there is no mining in Firestone, just a processing plant. All materials are imported to the site to make asphalt. The difference is here, we wont need trucks coming in with sand, which asphalt is 20-25% sand. He anticipates the first 5-10 years there will be lower truck traffic than in Firestone.
- Commissioner Woolman follows that this can be moved because the mining operations nearby are completed?
 - Steve answers that one of the goals is to get us off leased sites. The Firestone site is leased, and the lease is up. We are looking for opportunities to own the land where operations are to occur.
- Chair Myers says that with the neighborhood meeting, there were heavy concerns about traffic and can also guess smell, noise, and dust. What have you done to mitigate the concerns or how have those been handled?
 - Steve answered that there were a lot of concerns were about traffic and one about the speed limit on County Road 394. Some concerns about dust and noise. The traffic has had extensive discussions with the City staff and CDOT. It

is estimated roughly 30% would go South on 35 and the rest East to 85. LaSalle has made it clear they do not want out trucks going through LaSalle. CDOT has a large project planned where they are going to do a large interchange and it would help us since there won't be a light at 394 and 85. Anticipating most traffic will go South.

**** Public comment is open.**

- Garryl Bush, 6940 WCR 394 states that his main concern is traffic. He explains there are Frac sand trucks already, Envirotech, Feed lots, grain, and cattle trucks. There will be trucks coming in and out and it will be a headache even if they move it down since it is a two-lane road. There is smell and the wind will push it just like the feed lots. There is abundance of wildlife as well. His main concern is the noise and traffic since there is so much already, this will just add to it.
- Connie Shank Nelson, speaking for Ester Shank, own lands right below where the plant would be. She explains that she is concerned about the wildlife and going in and out as well as the smell. She also states that the Flood Zone is a concern. In the previous flood, their oil tanks were wiped out. She doesn't think this is the right atmosphere. The people prior had all farming fields, and a previous gravel pit was turned down by Evans. She also states that since there is hunting now, that will change, and the wildlife will not be there.
- No comments were submitted virtually.

**** Public comment is closed.**

- Applicant, Steve Ward addressed the concerns above and gave an example that there is a picture of an eagle's nest at one of their mines and there is nothing that will affect wildlife.
Steve also addresses the traffic concerns, and it is in their best interest that the traffic works for everyone. They would like a stop light eventually on 394. The traffic counts are projected to be low, around 50 trucks a day over 8 hours, so not that many. There is also a Road Maintenance Agreement with Weld County.
- They spoke with Ester Shank about access to their property since that was her concern, and she will keep access to her property.
- Steve explained the tanks are secure to the ground and impermeable, and the tanks will not be washed away with a flood, they are several hundred tons.
- Anne gives a quick brief about the criteria for approval for the change of zone to Industrial 3, should the land be annexed into the City, just for the extraction use, that is what this motion would either approve or deny.

****Motion/Vote: Motion by Commissioner LeClere, seconded by Commissioner Woolman, all voted in favor, motion carried.**

• **Hunt Brothers Properties Zoning of one parcel, 22-COZ-01: 7:46 pm**

- Presentation from Anne Best-Johnson, Community Development Director for Planning Commission to consider the zoning of one parcel.
- This property is zoned PUD and was annexed into the City. This was zoned through the Platte River Bottom Annexation in 2003 and it was intended for Commercial and Residential purposes. FEMA is expanding the Floodway and it is heavily regulated.
- SPO Notice 1/12/2022, Published Notice in Greeley Tribune 2/4/2022, Sign posted 1/21/2022. Public hearings: Planning Commission 3/22/2022, City Council 4/3/2022.
- This is for the change of zone from PUD to Industrial 3 for natural resources and extraction.

- Chair Myers asks that since it was PUD and part of the gravel mining was contemplated, was the intent always to come back and be re-zoned because gravel mining is only allowed in I-3? Why can't it just remain PUD?
 - Anne answers that the Master Plan for the Platte River Bottom Annexation contemplated land uses, and this particular property was for Commercial and Residential, not land mining.
- Applicant, Steve Ward with Asphalt Specialties presents that since FEMA moved the flood area South, it will not be Residential. This parcel is where it is intended to put the plant itself. The previous parcels would be reverted to Agriculture, but in this parcel, they would want the plant to stay where it is for a year or two after the mining is complete.
- Steve explains recycling as it uses a crushing machine and water to keep the dust down. It has special air permits. 80% of asphalt is recycled.
- Commissioner LeClere asks what benefit is it to our City that we have a plant like this? Do you sell the asphalt to our City for development, or is it sold somewhere else?
 - Steve answers that the best benefit to Evans and surrounding cities is to have a competitor in the market. When there can both the plant and the mine, and can be more local, there can be a better, more competitive price. Having a competitor and because governments are large consumers, the City of Evans benefits like every other buyer. Prices to Evans will probably be on a bid basis, lower than competitors because we are closer.
- Commissioner LeClere is concerned about the amount of homes around the parcel of land.
- Commissioner Woolman asks what is to the South of 394?
 - Steve answers that there are a few houses, yes.
- Commissioner LeClere asks if that is within 200 yards?
 - Steve answers that he didn't do a distance map but thinks about $\frac{3}{4}$ of a mile from the plant.
- Commissioner LeClere states that he wonders if this was zoned PUD for the planned use of the parcel because of the surrounding areas, why change it?
 - Anne replies that at the time it was zoned PUD, it was looking at the future land use map at that moment in time for very dense development at an urban scale. The closest residential structure from the plant to the South measures 300 feet and to the South side of 394 between 650 and 700 feet.
 - Everything in the Floodway will revert back to Agriculture. Everything in the Floodplain will be zoned with what will be compatible at that time when the plant is no longer on site.
- Commissioner Woolman asks if the plan is to start mining right away on this parcel, starting West and moving East?
 - Steve answers that he thinks the dirt will not be moved for mining purposed for at least 15 months since the DRMS is that long. He thinks summer of 2023 at the earliest. The plan for the plant is to be up in November/December timeframe. They want 5 quarters of well monitoring and that just began.
- Chair Myers states that anything that can be done to mitigate for the neighbors would be desirable.
- Chair Myers states it was mentioned having the plant longer, after the land in the Floodway and Floodplain would be reverted when the mining is complete, but the

land where the plant is to remain I-3. Is the idea to continue to have the asphalt plant to continue mining, if permitted.

- Steve answers that it is pure conjecture at this point. We are asking that the I-3 remains if the plant remains. If the plant moves, we revert.
- Chair Myers asks if the DRMS permit has not been approved yet? Where are you at in the process?
 - Steve answers that they are early in the process, and it is a very involved process. He doesn't anticipate having DRMS approval until next year. Their concern isn't the mining, but the reclamation for bonding purposes.
- Chair Myers asks if recycling was a point of contention?
 - Steve answers that it was a concern but didn't follow up with anything.
- Commissioner Woolman asks about screening. Is that mainly screening visually?
 - Steve answers no, there is more. It comes out in the Site Plan process. There are other things you must screen, one of which is the beepers when you back up commercial trucks, so there is screening for equipment noise. There is a different way to alert, and that is being looked into, especially if concerns from neighbors arise.

**** Public comment is open; nobody is present in audience.**

**** Public comment is closed.**

- Chair Myers asks for clarification on Colorado Statue 34-1-305 in terms of how it prohibits the ability to take action.
 - Anne answers that her understanding is that the City cannot permit a subdivision or a commercial development on land that has a mineral reserve in a manner that prohibits the extraction of that reserve. The active zoning doesn't approve land use. In this particular request, the applicant is saying everything in the Floodway reverts back to Agriculture. There is a small footprint of Floodplain that could be used for development, but it would have to go through local floodplain development processes.
- Drew Lyman, City Attorney, explains that if approver would interfere with the present or future deposit the application can't be approved. There isn't evidence this is occurring here, correct?
 - Steve answers that it is just stating a State policy as a State to extract the resources first whenever possible.
- Drew also states the statue also prohibits permanent structures on areas used for extraction, which means this is temporary to extract minerals.
 - Commissioner Woolman asks if that includes the recycling plant?
 - Drew answers it includes any permanent structure on the area of extraction.
- Anne did a calculation and the footprint for the Floodplain area is approximately 12 acres.

****Motion/Vote: Motion by Commissioner Woolman, seconded by Commissioner Farley, all voted in favor, motion carried.**

- **Asphalt Specialties Special Use Permit, 22-SUP-02: 8:39 pm**
 - Presentation from Anne Best-Johnson, Community Development Director for Planning Commission to consider Special Use Permit for Outdoor Storage.
 - In the I-3 zone district, 30% of the property can be used for Outdoor Storage. It is not clear in the Land Use Code, so bring the request to exceed 30% for this application since it is assumed gravel mining will exceed the permitted 30%.

- SPO Notice 1/12/2022, Published Notice in Greeley Tribune 2/4/2022, Sign posted 1/21/2022. Public hearings: Planning Commission 3/22/2022, City Council 4/3/2022.
 - The tallest structure allowed in the I-3 zone is 60 feet without a variance, and the stockpiles won't exceed 25 feet.
 - There is a dust mitigation plan in place.
 - Chair Myers asks if it was intentional to add an upper threshold to this? Now it is 30% or lower, so the exception here is more than 30%.
 - Anne says the reason she didn't is because the nature of the land use is for gravel mining, so the whole site will be utilized for outdoor storage. Wanted to contemplate the underlying request for the site plan with this request to and didn't want the two to conflict with each other.
 - Applicant Steve Ward, Asphalt Specialties says they are requesting this as an abundance of caution and make sure to have the approvals needed.
 - Asphalt Specialties recruits locally, so this will provide jobs.
- ** Public comment is open; nobody is present in audience.**
- ** Public comment is closed.**
- **Motion/Vote: Motion by Commissioner LeClere, seconded by Commissioner Woolman, all voted in favor, motion carried.**

****Public Hearing closed at 9:04 pm and will resume at 9:10 pm for Work Session.**

5. WORK SESSION: 9:10 pm

- **Evans Industrial Park Update:**
 - Presentation by Katelyn Puga, City Planner, on the Industrial Park Land Use and Zoning and the existing conditions as well as success rates with property owners cleaning up their properties and getting the Land Use Permits.
 - The end goal is property owners taking pride and others to come into compliance and to attract that from other property owners as well as update the Land Use Codes.
- **Update on Progress Towards Creating 1041 Regulations for the City:**
 - City of Evans is working with Weld County for Intergovernmental Agreement.
 - Looking into what the code language would be of State interest and intergovernmental agreement. Great item for future work session depending on the outcome of City Council hearing.

6. INFORMATION/DISCUSS: 9:30 pm

- **Election of Chair and Vice-Chair for a One-Year Term**
 - It is time to re-elect for this year's term. Kalen Myers was nominated as Chairman and Mark LeClere as Vice-Chairman.

****Motion/Vote: Motion to vote by Commissioner Woolman, seconded by Commissioner Farley, all voted in favor, motion carried.**

7. MOTION TO ADJOURN: 9:42pm

- **Motion/Vote: Motion to adjourn by Commissioner Woolman, seconded by Commissioner Farley, all voted in favor, motion carried.**

ASPHALT SPECIALTIES COMPANY, Inc.

Economic Impact of Facility in Weld County, Colorado

March 2022

BUSINESS RESEARCH DIVISION
Leeds School of Business
University of Colorado Boulder
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PROJECT OVERVIEW

The Business Research Division conducted a study of the economic impact of a new asphalt operation on the City of Evans. The Colorado-based, vertically integrated company extracts aggregate, sand, and gravel; produces asphalt; and provides residential and commercial asphalt paving services. The company has an operation in Firestone, Colorado that is near the end of life, and is seeking a new operation in the City of Evans in Weld County, Colorado. The estimates of economic impact derive from unaudited sales, employment, and wage projections from Asphalt Specialties Company, Inc. This study estimates the total economic impact stemming from company operations, supply chain purchases, and employee consumption.

The purpose of this study is to provide third-party research to Asphalt Specialties Company, Inc. and its stakeholders, including governments, residents, and businesses, about the economic contributions of the operations in Weld County.

While relocating the plan to Evans will increase direct economic activity in Evans, the facility may have many of the same suppliers and employees as the current facility in Firestone. The study does not examine the *net* effects of relocating the plant within Weld County. Likewise, the study does not examine the public revenue (e.g., taxes and fees) nor the public costs (e.g., roads and environment) of the operation.

METHODOLOGY

This study was conducted in cooperation with Asphalt Specialties Company, Inc. The company provided unaudited, proforma data on steady-state operations, including aggregate and asphalt sales, employee counts, employee compensation, proprietor income, and contracting income. According to the company, if the Firestone operation is shut down, Evans would be the source of the company's aggregate and asphalt for contracting activity along the Front Range.

The company estimated \$6 million in annual aggregate and asphalt sales, \$15 million in contracting income, 36 employees working pit and transportation operations, and \$1.4 million in annual employee wages and benefits.

Data were modeled by industry in the 546-sector IMPLAN input-output model. Asphalt Specialties Company, Inc. did not provide a list of suppliers or a typical spending profile for the company—this activity was derived from the model. This model quantified the economic impacts of company operations on Weld County.¹ Input-output (I-O) economic analysis quantifies economic activity derived from elements of production, such as labor and intermediate inputs. It includes estimates of the indirect and induced activity based on industry supply chains and regional trade flows. The direct impact describes the impact from Asphalt Specialties Company's sales, employment, and wages. The indirect impact describes the economic activity derived from the company's purchases of goods and services from other companies (i.e., supply chain), and the induced impact describes the economic activity derived from spending associated with employee earnings—people spend their earnings on goods and services in the community (e.g., mortgage, rent, utilities, entertainment, food, clothing, etc.). The

¹ The model was built using a combined region including Weld and Adams counties to capture industry spending patterns of asphalt economic data existing in Adams County.

relationship between direct industry activity and the indirect/induced activity is distilled in industry multipliers.

Multipliers refer to the interindustry relationships within a study area in terms of input-output (I-O) economic impacts.² Multipliers are useful for analyzing project decisions to understand the incremental impacts that such activities have on the local economy. IMPLAN multipliers are static and thus do not consider large-scale disruptive impacts on the economic fabric without calculating specific infrastructure changes.

Two IMPLAN sectors were used to represent company activity: sector 29 (sand and gravel mining) and sector 155 (Asphalt paving mixture and block manufacturing). These correspond to two North American Industry Classification System industries: NAICS 212321 (Construction Sand and Gravel Mining), 324121 (Asphalt Paving Mixture and Block Manufacturing).³ Downstream asphalt paving operations would be modeled in sector 62 (maintenance and repair construction of highways, streets, bridges, and tunnels), which corresponds to NAICS 237310 (Highway, Street, and Bridge Construction).

DEFINITIONS

Gross Domestic Product (GDP): A measure of economic activity, GDP is the total value added by resident producers of final goods and services.

Gross Output (Output): The total value of production is gross output. Unlike GDP, gross output includes intermediate goods and services.

Value Added: The contribution of an industry or region to total GDP, value added equals gross output, net of intermediate input costs.

Labor Income: Total compensation of employees (wages and benefits) and sole proprietors (profits).
Employment: Full-time and part-time workers.

Direct Impact: Initial economic activity (e.g., sales, expenditures, employment, production, etc.) by a company or industry.

Indirect Impact: The upstream (backward) economic activity impacted by purchases of goods and services from other companies.

Induced Impact: Economic activity derived from workers spending their earnings on goods and services in the economy.

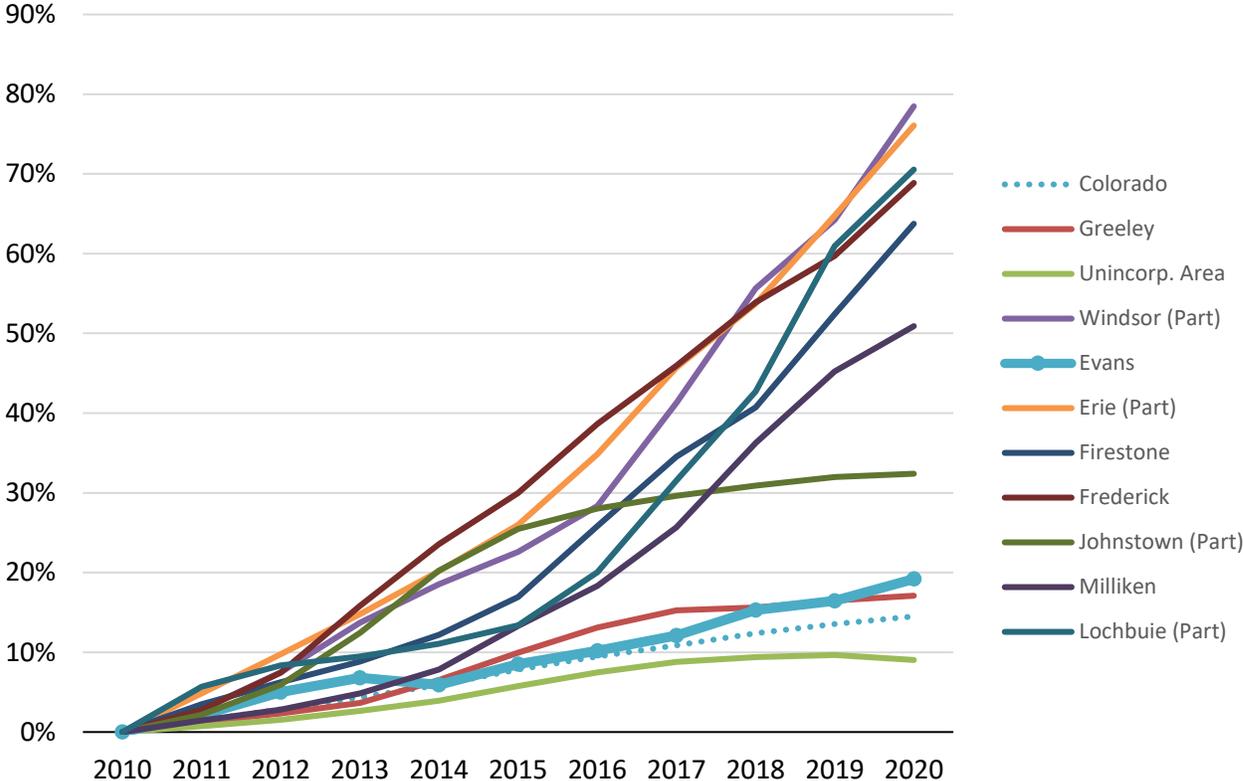
² Bureau of Economic Analysis, Regional Multipliers, <https://www.bea.gov/news/blog/2019-09-03/bea-updates-regional-economic-impact-tool>, retrieved March 1, 2022.

³ U.S. Census Bureau, North American Industry Classification System. <https://www.census.gov/naics/?99967>, retrieved March 1, 2022.

ECONOMIC OVERVIEW

The City of Evans is located along the Front Range in Weld County, Colorado. Weld County’s population was 331,184 in 2020 – the eighth-largest county in the state by population, representing 5.7% of the state total, according to the Colorado State Demography Office. The population in Evans grew 2.4% in 2020 year-over year to total 22,204, ranking it the third-largest municipality in the county behind Greeley and Windsor. The population of Evans grew at a 10-year compound annual growth rate (CAGR) of 1.8% from 2010 to 2020, slightly higher than that of Weld County (1.6%) and the state (1.4%).

FIGURE 1: WELD COUNTY 2010-2020 POPULATION GROWTH BY TOP 10 LARGEST MUNICIPALITIES



Source: Colorado State Demography Office.

Employment in Weld County averaged 107,080 in 2020, ranking it as the 9th-largest county in Colorado by employment, according to the Colorado Department of Labor and Employment. Employment in the county fell 6.4% in 2020 year-over-year compared to a 4.8% decline statewide. For the 12-months ending in September 2021, employment in Weld County averaged 105,995 covered wage and salary jobs. The unemployment rate in Weld County stood at 4.2% in December 2021, on par with the rate of the state. The county’s unemployment rate has fallen significantly from the 10.9% observed in June 2020 due to the pandemic-induced recession but is still elevated from levels pre-pandemic (2-3%).

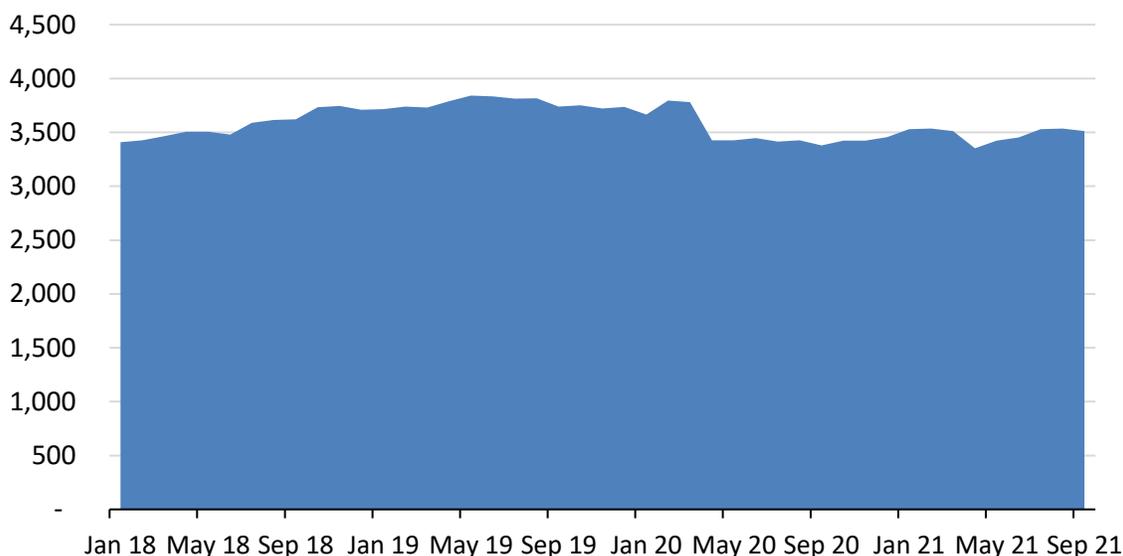
The largest employment industries in Weld County are Government (14%), Manufacturing (12%), Construction (10.7%), Retail Trade (10%), and Health Care & Social Assistance (9%).

FIGURE 2: WELD COUNTY ESTABLISHMENTS AND EMPLOYMENT BY INDUSTRY, Q3 2021

Industry	Establishments	% of Establishments	Average Employment	% of Employment
Agriculture, Forestry, Fishing, Hunting	4,415	4.1%	4,369	4.1%
Mining	4,666	4.4%	4,695	4.4%
Utilities	449	0.4%	452	0.4%
Construction	11,600	10.8%	11,500	10.7%
Manufacturing	12,969	12.1%	12,933	12.0%
Wholesale Trade	4,289	4.0%	4,261	4.0%
Retail Trade	10,850	10.1%	10,786	10.0%
Transportation & Warehousing	3,646	3.4%	3,714	3.4%
Information	537	0.5%	544	0.5%
Finance & Insurance	2,812	2.6%	2,805	2.6%
Real Estate, Rental & Leasing	1,341	1.3%	1,338	1.2%
Professional & Technical Services	3,532	3.3%	3,557	3.3%
Management Of Companies & Enterprises	1,831	1.7%	1,801	1.7%
Administrative & Waste Services	5,963	5.6%	6,002	5.6%
Educational Services	707	0.7%	738	0.7%
Health Care & Social Assistance	9,590	8.9%	9,692	9.0%
Arts, Entertainment & Recreation	1,051	1.0%	1,190	1.1%
Accommodation & Food Services	8,823	8.2%	8,850	8.2%
Other Services	2,841	2.7%	2,814	2.6%
Non-classifiable	10	0.0%	13	0.0%
Government	15,231	14.2%	15,630	14.5%
Total All Industries	107,153	100%	107,684	100%

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Employment in Evans totaled an estimated 3,506 in 2020, representing an estimated 3.3% of Weld County employment, according to data from the Colorado Department of Labor and Employment. The largest industry in Evans is Health Care and Social Assistance (20%), followed by Mining (18%), and Retail Trade (12%). Employment in Evans dipped around 9% in April 2020 due to the pandemic-induced recession and has yet to recover all of the jobs lost. Employment in September 2021 was down an estimated 4.1% from January 2020.

FIGURE 3: CITY OF EVANS, COLORADO EMPLOYMENT, JANUARY 2018 – SEPTEMBER 2021

Source: Colorado Department of Labor and Employment.

Over the four quarters ending Q3 2021, total wages in Weld County summed to \$6 billion. Average annual pay in Weld County in 2020 was \$56,265, 18.5% lower than the statewide average of \$66,649 and ranking 12th out of the 64 counties in Colorado. Average annual wages in the county increased 3.6% in 2020 year-over-year (lower than the 7.8% increase statewide) and have observed a 10-year CAGR of 3.7% from 2010 to 2020 (higher than the 3.4% increase statewide). The Utilities industry paid the highest average annual wages in Weld County with annual wages of \$106,498, followed by Mining (\$104,662), and Professional, Scientific, and Technical Services (\$77,459).

FIGURE 4: WELD COUNTY AVERAGE ANNUAL WAGES BY INDUSTRY, 2020

Industry	Average Annual Wages
Agriculture, forestry, fishing and hunting	\$48,285
Mining	\$104,622
Construction	\$66,251
Manufacturing	\$58,587
Utilities	\$106,498
Wholesale Trade	\$72,661
Retail Trade	\$35,785
Transportation and Warehousing	\$62,425
Information	\$76,570
Finance and Insurance	\$71,085
Real Estate Rental and Leasing	\$55,697
Professional, Scientific, and Technical Services	\$77,459
Administrative Support and Waste Management and Remediation Services	\$43,392
Educational Services	\$29,334
Health Care and Social Assistance	\$51,365
Arts, Entertainment, and Recreation	\$26,653
Accommodation and Food Services	\$20,120
Other Services	\$42,062
ALL	\$56,265

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Real GDP in Weld County declined 11.5% in 2020 year-over-year, compared to the statewide decline of 3%, according to the Bureau of Economic Analysis. The large decline in real GDP was led by a 32.4% decline in Mining, quarrying, and oil and gas extraction. Mining, quarrying, and oil and gas extraction is the county's largest industry representing 39.2% of real GDP, followed by Finance, insurance, real estate, rental, and leasing (10.9%), and Manufacturing (7%).

FIGURE 5: WELD COUNTY REAL GDP BY INDUSTRY, 2020



Source: Bureau of Economic Analysis.

ECONOMIC IMPACT

The economic contribution from Asphalt Specialties Company extraction and asphalt manufacturing projected operations on the Weld County total \$8.8 million in 2022 dollars. Most of the impact derives from direct operations—an estimated \$6 million in sales, \$1.4 million in employee compensation, and 36 full-time and part-time employees.

TABLE 1: ASPHALT SPECIALTIES COMPANY, TOTAL ECONOMIC CONTRIBUTION ON WELD COUNTY

Impact	Employment	Employee Compensation (\$M)	Value Added (\$M)	Output (\$M)
Direct	36	1.4	3.2	6.0
Indirect	5	0.4	0.9	1.9
Induced	6	0.2	0.5	0.8
Total	47	2.0	4.6	8.8

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IMPLAN® model, 2019 Data, using inputs provided by the user and IMPLAN Group LLC, IMPLAN System
(data and software), 16905 Northcross Dr., Suite 120, Huntersville, NC 28078
www.IMPLAN.com.



COLORADO

Parks and Wildlife

Department of Natural Resources

Fort Collins Service Center
317 West Prospect Road
Fort Collins, CO 80526-2003
P 970.472.4300 | F 970.472.4458

Item # 5.

January 28, 2022

Eric Scott
Division of Reclamation, Mining and Safety
1313 Sherman St. Room 215
Denver, CO 80203
303.866.3567 x 8140
eric.scott@state.co.us

Re. Stiles Mining Resource, File No. M-2021-067, at or near Section 35, Township 5N, Range 66W, 6th Principle Meridian, in Weld County.

Mr. Scott:

Thank you for the opportunity to comment on Stiles Mining Resource mining and reclamation project. Colorado Parks and Wildlife (CPW) is in receipt of the above referenced review proposal and is familiar with the site.

The mission of CPW is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources. CPW has a statutory responsibility to manage all wildlife species in Colorado; as such we encourage protection for Colorado's wildlife species and habitats through responsible energy development and land use planning.

The protection of High Priority Habitats (HPH), big game winter ranges, and raptor nesting locations are of extreme importance to CPW. CPW recommends that all proposed projects be assessed to avoid, minimize, or mitigate impacts to sensitive wildlife habitats and species. That includes species of concern, big game winter concentration areas, breeding and nesting habitats for sensitive ground-nesting birds, and nests of raptors sensitive to development to prevent the loss of habitat or fragmentation of habitat. One way CPW achieves our mission is by responding to referral comment requests, as is the case for this project.

THE IMPORTANCE OF HIGH PRIORITY HABITATS

Developers and permitting agencies can help avoid, minimize, and mitigate impacts to wildlife from their projects by working with CPW. HPHs are defined as sensitive habitats where CPW has recent maps regarding sensitive wildlife use, plus scientifically-backed best management practice recommendations. HPHs are a subset of CPW's Species Activity Maps that we collect and update for a variety of species and their particular habitats; we provide these maps to the public and regulatory agencies for the environmental assessment and land use commenting of proposed development on a given parcel, and general scientific research.

RECOMMENDATIONS

Construction Timing

- If prairie dogs are present or become present within any of the project boundaries and initial construction occurs from March 15 to October 31, then please complete a Burrowing Owl survey per CPW recommendations.
- If initial construction is slated for the spring and summer, please incorporate active raptor nest buffers and avoidance periods. All migratory birds are protected under the Migratory Bird Treaty Act and removal or disturbance of any migratory bird nest would require consultation with CPW and US Fish and Wildlife Service (USFWS) prior to disturbance.
- Mule deer Severe Winter Range and Mule deer Winter Concentration Areas are both mapped HPHs within the project boundaries. Because of this, CPW recommends construction not occur in winter and spring and further recommends no human activities be authorized from December 1 to April 30 during the construction phase.

Fencing

CPW is concerned for the safety of Mule deer and White-tailed deer in the area for the proposed project. CPW recommends that if fencing (project perimeter or internal) is erected, either during or after the project, it should be the type that would allow the free passage of wildlife. Fencing plans should avoid the use of woven wire type fences that will trap or prevent movement of wildlife. CPW recommends the use of three or four strand smooth-wire fencing with a bottom strand height of 17 inches above ground level and a maximum top strand height of 42 inches above ground level, along with the installation of double stays between posts.

Noxious Weeds and Native Re-seeding

Also of importance to CPW is the revegetation of disturbed soils and the control of noxious weed species through the development of a noxious weed management plan prior to initiating construction activities. The revegetation of disturbed areas and control of invasive weed species are important components of the project and it is critically important that the site be restored back to the native plant community that currently exists on site. CPW prefers that native vegetation be retained on-site during the operational lifespan of the project, both as potential habitat for wildlife and to ensure successful reclamation of the project area, as noxious weeds could spread to adjacent habitats outside the project area.

Wildlife Escape Ramps

During open pit or open trench mining operations, CPW recommends backfilling escape ramps in areas where steep slopes occur. Escape ramps will allow wildlife to safely exit an open pit or trench if they become entrapped.

Retention ponds

Ponds created by reclamation efforts could potentially have significant value to wildlife. To maximize this benefit, CPW recommends that ponds be designed to include irregular shorelines and one or more islands to provide cover, shelter, and nesting areas for migratory birds. Islands should be at least 15' x 25' in size for every two surface acres of water in the pond. Shoreline and island slopes should be graded to a ratio of 4 horizontal feet to every 1 vertical foot of distance, with some areas having slopes no steeper than 8 horizontal feet to every 1 vertical foot of distance.

Such shallow areas will allow for the establishment of a variety of aquatic vegetation and invertebrate prey for waterfowl and shorebirds. Shorelines should be re-vegetated with native aquatic vegetation.

In closing, CPW requests from DRMS, Weld County Planning Department and Asphalt Specialties Co., Inc., that CPW continue to be involved with this project as it moves through the permitting process. We appreciate being given the opportunity to comment. Please feel free to contact District Wildlife Manager Mike Grooms at 970.692.4028 or via email at michael.grooms@state.co.us should you have any questions or require additional information.

Sincerely,



Jason Surface
Area Wildlife Manager
Area 4- Fort Collins

Cc: Michael Grooms; Mark Leslie

The applicant seeks approval to rezone one parcel of land that was previously zoned as Planned Unit Development (PUD) by the City through the Platte River Bottom Annexation in 2003. The proposed uses for this portion of the PUD were intended for Commercial and Residential purposes however, this property is now fully encumbered by the floodway and the floodplain. The property development plans did not progress to a subdivision, but the property was zoned PUD. The new property owner is now proposing the use as represented in the application materials is for *Natural Resources Extraction and Treatment* [gravel mining, materials storage and processing, crushing and sorting, and an asphalt batch plant]. It is the intent of the current property owner to zone this property to Industrial, I-3 for only *Natural Resources Extraction and Treatment*. This is the only zone district in Evans that supports natural resource extraction and treatment outside of a PUD that considered these uses. Mining and processing are appropriate uses of land classified as floodway or floodplain. Future zoning of the property is discussed in the Conditions of Approval and Development Standards.

The Change of Zone application does not grant the applicant approval of the contemplated *Natural Resources Extraction and Treatment* land use. This particular land use application is a use approved through the Site Plan review process. Site Plans are processed administratively and the resulting Development Agreement will be presented to City Council for approval.

Title 18.06.040.B of the Evans Municipal Code identifies the application requirements for a Change of Zone. Application requirements were met by the applicant. Title 18.06.040.C provides a clear outline of the procedures to be followed when processing an application for a Change of Zone. Staff followed these procedures and included internal Design/Development Review Team meetings and a review of referral agency responses. Staff has followed the review criteria as well as the publication, posting and notification criteria found in Sections 18.10.10 and 18.10.20. Staff's adhered to the following requirements as listed below:

- The land use hearings were first published in the Greeley Tribune on March 2, 2022 and will be published for four weeks leading up to the April 4, 2022 hearing before City Council.
- Notice was sent to all property owners within a 500' radius of the project on February 18, 2022. Notice was sent via Certified and First Class mail in accordance with the City Code Sections 18.10.010 and 18.10.020.
- Three signs were posted along Weld County Road 394 on February 17, 2022.

Title 18.06.030.D provides a clear outline of nine Criteria to be met for the Planning Commission and City Council to approve an application request for a Change of Zone. These Criteria are listed below along with narrative detailing how staff and Planning Commission have found each criterion is, or can be met with the attached Conditions of Approval.

1. That a need exists for the proposal

The Platte River Bottom Annexation was approved in 2003 followed by zoning to PUD for Industrial, Commercial and Residential uses. The portion of the PUD to be vacated and rezoned to Industrial, I-3 is on part of the property contemplated for Residential and Commercial purposes. The current applicant has requested a re-zoning of the property to support the use of natural resources extraction and processing. Once the mining is completed, the property will be reclaimed for pasture and open space uses. The entire property is either in the floodway or the floodplain.

The original contemplated uses for commercial and residential are not logical in this special hazard overlay district. The only zone district in the City of Evans that allows Natural Resources Extraction and Treatment is the Industrial, I-3 district. This zoning is appropriate for the property as mineral reserves have been found on site.

The north front range of Colorado continues to grow. Roads, bridges, trails, sidewalks, parks, schools and other buildings need to be constructed and repaired. Having a source of construction materials near growth makes logical sense and may contribute to keeping development related costs lower than hauling materials from other communities.

Colorado Revised Statutes Section 34-1-305 illustrates the State's recognition of the importance of preserving reserves of commercial mineral deposits for extraction. This statute states that there shall be no prohibitive land uses permitted on properties that would interfere with the present or future extraction of the commercial mineral deposits. Extracting the mineral reserve in a floodplain and floodway area with the knowledge this will be reverted to agricultural/pasture land supports not only the commercial demand for construction materials but also State Statute for extraction of mineral deposits.

2. The particular parcel is indeed the correct site for the proposed development

The project site is in the floodway and floodplain. Mineral resources such as sand and gravel are located along river areas which are in the floodway and floodplain. The proposed zoning classification of Industrial, I-3 will allow the applicant to extract and process the resource. While Planning Commission and City Council are not considering a land use or development with this particular application, the zoning classification matches the desired land use.

3. There has been an error in the original zoning OR

4. There have been significant changes in the area to warrant a change of zone

The Platte River Bottom Annexation was approved in 2003 followed by zoning to PUD for Industrial, Commercial and Residential uses. The portion of the PUD to be vacated and rezoned to Industrial, I-3 is on part of the property contemplated for Residential and Commercial purposes. The current applicant has requested a re-zoning of the property to support the use of natural resources extraction and processing. Once the mining is completed, the property will be reclaimed for pasture and open space uses. The entire property is either in the floodway or the floodplain. The original contemplated uses for commercial and residential are not logical in this special hazard overlay district. The only zone district in the City of Evans that allows this use category is the Industrial, I-3 district. This zoning is appropriate for the property as mineral reserves have been found on site.

5. Adequate circulation exists and traffic movement would not be impeded by development

The applicants have provided a Traffic Impact Study which has been reviewed by City Staff, Weld County, the Town of LaSalle and CDOT. A future Development Agreement with the City of Evans, the Town of LaSalle and Weld County will address long-term maintenance and improvements of the roads serving these properties. These requirements will be reflected in the Development Agreement to be presented to City Council in the future. The referral response from Weld County is included with this Agenda memo.

6. Additional municipal service costs will not be incurred which the City cannot meet

Required services as applicable due to the proposed site-specific development plan shall be addressed with the Site Plan review.

7. *There are minimal environmental impacts or impacts can be mitigated*

The act of changing the zone of these parcels does not create environmental impacts. Future site-specific plans such as a Special Use Permit or a Site Plan will be required to discuss how proposed development may impact the environment and include any mitigation measures. The Colorado Department of Wildlife has reviewed the plans. The referral is attached to this Agenda Memo. Other State agencies are reviewing the DRMS Permit and the State of Colorado will not issue this permit until all review has been completed and there are no concerns. The applicant is not able to mine this site until the State DRMS Permit has been issued.

8. *The proposal is consistent with the Evans Comprehensive Plan maps, goals and policies*

The Three-Mile Plan adopted on February 15, 2022 identifies these parcels as appropriate for future open space as it is located in the floodplain and floodway. Mineral extraction is largely found in the floodplain and floodway areas on the eastern Colorado plains. While this proposal zones the property to Industrial, I-3, future land uses will be limited due to the floodway and floodplain designations. The reclamation plan filed with the State Division of Reclamation and Mining Safety suggests the property will be used for pasture after mining is completed. To mine the property and process mined materials on site requires a change of zone.

9. *There is adequate waste and sewage disposal, water, schools, parks and recreation, and other services to the proportional degree necessary due to the impacts created by the proposed land uses.*

The Development Agreement associated with the Site Plan will address timing and triggering events which may necessitate public improvements. The intended land use does not negatively impact services, schools, parks and recreation. The resulting land use may benefit the City by providing an easement for future trail access.

The applicant shall address the following **Conditions of Approval**. Once finally approved, the applicant shall submit the signed, stamped and sealed Change of Zone map package to the City electronically for recording. Staff's Conditions of Approval and Development Standards are listed below.

- a) A maximum of three (3) months will be granted to the applicant to address the Conditions of Approval. Any project that is inactive for more than three (3) months from the date of the City Council meeting shall result in applications becoming permanently inactive, and the applicant shall forfeit their fees.
 - b) All resubmittal materials shall be subject to the following fees as adopted in the City Fee Schedule when applicable. This information is provided for your planning purposes with resubmittals.
 1. For every submittal after the 3rd round of review, 50% of the original (total) filing [application] fee shall be required by the applicant.
 2. Should a resubmittal require an extensive review by staff after the first submittal, then a \$200 Post-Review DRT Meeting fee shall be required by the applicant.
 - c) The following Development Standards shall be placed on the Change of Zone map as notes under the heading of "Development Standards."
-

1. Approval of this plan may create a vested property right pursuant to Article 68 of Title 24 C.R.S., as amended.
 2. The plans reviewed by the City and subsequently recorded with Weld County Clerk and Recorder constitute the extent of the land use approval. Any changes may necessitate an amendment to the land use permit.
 3. All land use activities occurring on the property are required to have a site-specific development plan such as a Site Plan or a Special Use Permit. Any uses outside of approved Site Plans or Special Use Permits are not allowed. Additional uses may be permitted through additional land use permit processes.
 4. The only Industrial, I-3 use permitted is for Natural Resources Extraction and Treatment as defined in the current Land Use Code. This includes gravel mining, materials stockpiling and storage, crushing and screening, and an asphalt batch plant.
 5. The zoning for the portions of the property that are in the floodway shall automatically revert from I-3 to Agricultural when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if this portion of the property is ready for release prior to release on adjoining properties. The City shall change the Official Zoning Map automatically from I-3 to Agriculture at that time.
 6. The zoning for the portions of the property outside the floodway shall revert from I-3 to a zone district compatible with the City's future land use map when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if this portion of the property is ready for release prior to release on adjoining properties. The applicant shall request a Change of Zone application at that time.
 7. The application reviewed by the City and subsequently recorded with Weld County Clerk and Recorder constitute the extent of the approval for a change of zone.
- d) The Change of Zone map shall be provided to the City Planning Department for approval along with all items needed to satisfy the following Conditions of Approval. Upon approval, the applicant shall return the final Change of Zone maps to the City electronically with necessary signatures and stamps.

FINANCIAL SUMMARY:

There is no financial implication for approving the Change of Zone request. Please see the attached Economic Impact Report for the overall economic impacts of the proposed development.

RECOMMENDATION:

Planning Commission heard the request at its March 22, 2022 public hearing and recommended approval as represented in the Staff Report with Development Standards and Conditions of Approval.

SUGGESTED MOTIONS:

“I move to approve Ordinance Number 758-22 as proposed, with the proposed Conditions of Approval and Development Standards to City Council.”

“I move to deny Ordinance Number 758-22 as proposed, due to the reasons stated.”

ATTACHMENTS:

- Ordinance Number 758-22
- Draft Minutes from the March 22, 2022 Planning Commission public hearing
- Project Description
- Annexation and Change of Zone maps
- Economic Impact Report
- Referral responses

CITY OF EVANS, COLORADO

ORDINANCE NO. 758-22

AN ORDINANCE CHANGING THE ZONE FROM PLANNED UNIT DEVELOPMENT TO INDUSTRIAL I-3 WITH RESTRICTIONS FOR PROPERTY OWNED BY HUNT BROTHERS PROPERTIES, INC.

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, City Council approved a request to change the Zone of property associated with the Platte River Bottom Annexation to Planned Unit Development (PUD) upon Annexation to the City through Ordinance 375-06; and

WHEREAS, Hunt Brothers Properties, Inc., a Colorado Corporation (“the Petitioner”) filed a request to change the zone of the property described in Exhibit A, attached hereto (“the Property”) from PUD to Industrial, I-3; and

WHEREAS, the Property shall be removed from the previously approved PUD; and

WHEREAS, pursuant to the provisions of the Evans City Code, including but not limited to Sections 18.06.030 and 18.06.040, the matter was referred to the Planning Commission to obtain a recommendation as to the appropriate zoning of the Property; and

WHEREAS, the criteria to be considered by the Planning Commission and the City Council in zoning property, as set forth in Section 18.06.040.D of the Evans City Code are:

1. A need exists for the proposed uses,
2. The parcel of ground is indeed the correct site for the proposed development,
3. There has been an error in the assigned zoning, or
4. There have been significant changes in the area to warrant a zone change,
5. Adequate circulation exists and traffic movement would not be impeded by the development,
6. Additional municipal service costs will not be incurred which the City is not prepared to meet,
7. There are minimal environmental impacts or impacts can be mitigated,
8. The proposal is consistent with the Evans Comprehensive Plan, maps, goals and polices, and
9. There is adequate waste and sewage disposal, water, schools, parks and recreation, and other services to the proportional degree necessary due to the impacts created by the proposed land use.

WHEREAS, at its meeting on March 22, 2022, the Planning Commission considered the appropriate zoning of the Property; and

WHEREAS, based on the criteria set forth above, the materials included in the Application, the matters presented to the Commission by the Petitioner, and the comments of staff and the public, the Commission adopted staff recommendations that the Property be zoned to Industrial, I-3 for only Natural Resources Extraction and Treatment as defined in the current land use code. This includes gravel mining, materials stockpiling and storage, crushing and screening and an asphalt batch plant; and

WHEREAS, The zoning for the portions of the property that are in the floodway shall automatically revert from I-3 to Agricultural when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if this portion of the property is ready for release prior to release on adjoining properties. The City shall change the Official Zoning Map automatically from I-3 to Agriculture at that time; and

WHEREAS, The zoning for the portions of the property outside the floodway shall revert from I-3 to a zone district compatible with the City's future land use map when the property has been released from the State Division of Reclamation, Mining and Safety bond and has been reclaimed. Partial release of the bond will be diligently pursued if this portion of the property is ready for release prior to release on adjoining properties. The applicant shall request a Change of Zone application at that time; and

WHEREAS, following proper notice, the matter was presented to the City Council at its regular meeting on April 4, 2022; and

WHEREAS, based on the recommendation of the Planning Commission, as well as the Application, comments from staff and the public, and applying the criteria set forth above, the Council concludes that, the Property should be zoned I-3 for only Natural Resources Extraction and Treatment as defined in the current land use code. This includes gravel mining, materials stockpiling and storage, crushing and screening and an asphalt batch plant.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:

1. The Property shall be zoned Industrial, I-3 for only Natural Resources Extraction and Treatment as defined in the current land use code. This includes gravel mining, materials stockpiling and storage, crushing and screening and an asphalt batch plant. The zoning map for the City of Evans shall be amended to reflect such zoning.

2. The City Clerk is hereby directed to record this Ordinance and the Staff Report found in Exhibit B, attached hereto, with the Weld County Clerk and Recorder.

3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

BY: _____
Brian Rudy, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 19 DAY OF APRIL, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

BY: _____
Brian Rudy, Mayor

EXHIBIT A: LEGAL DESCRIPTION

THE E 1/2 OF THE E 1/2 OF THE SE 1/4 OF SECTION 35,
TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., WELD
COUNTY, COLORADO, EXCEPT THAT PART OF THE E 1/2 OF
THE E 1/2 OF THE SE 1/4 LYING SOUTH OF A LINE BEGINNING
AT THE SE CORNER OF SAID SECTION 35; THENCE NORTH 00
DEGREES 00 SECONDS WEST 172.15 FEET; THENCE NORTH 86
DEGREES 00 SECONDS WEST TO THE WEST LINE OF THE E 1/2
OF THE E 1/2 OF SAID SECTION 35,
COUNTY OF WELD, STATE OF COLORADO.

EXCEPTING FROM ABOVE PARCELS THE RIGHT OF WAY FOR
35TH AVENUE CONTAINED IN INSTRUMENTS RECORDED
DECEMBER 29, 2003 AT RECEPTION NO. 3139615, 3139614 AND
JUNE 20, 2006 AT RECEPTION NO. 3397576

EXHIBIT B: STAFF AGENDA MEMO

AGENDA

Planning Commission Public Hearing – Work Session

Tuesday, March 22, 2022 at 6:00 pm

Evans Community Complex, City Council Chambers, 1100 37th Street

PLANNING COMMISSION PUBLIC HEARING AND WORK SESSION

1. **CALL TO ORDER: 6:00 pm**

2. **ROLL CALL:**

Chairman: Kalen Myers - present
Vice-Chairman: Mark LeClere - present
Commissioners: Billy Castillo – not present
David Woolman - present
Sheila Ann Farley - present

3. **APPROVAL OF THE MINUTES: 2/22/2022: 6:00 pm**

****Motion/Vote: Motion by Commissioner LeClere, seconded by Commissioner Woolman, all voted in favor, motion carried.**

4. **PUBLIC HEARING: 6:01 pm**

- **Hunt Brothers Properties Zoning of two parcels, 22-COZ-02: 6:01 pm**
 - Presentation from Anne Best-Johnson, Community Development Director for Planning Commission to consider the zoning of two parcels.
 - SPO Notice 1/12/2022, Published Notice in Greeley Tribune 2/4/2022, Sign posted 1/21/2022. Public hearings: Planning Commission 3/22/2022, City Council 4/3/2022.
 - Error On presentation slide, PC 3/22, not Zoning Board, and City council 4/3, not 3/17.
 - Applicant is looking to change current zone from Agriculture in Weld County if Council approves the annexation, to Industrial 3, since that is the only area to allow natural resource extraction, and it is in a Floodplain and Floodway. It is not a densely populated area.
 - As the property in the Floodway is released from the State Division of Reclamation, Mining and Safety bond, that portion of the property will automatically be reverted back to Agricultural zoning.
 - As the property in the Floodplain is released from the State Division of Reclamation, Mining and Safety bond, the City would work with the applicant to determine the most appropriate zone district.
 - Staff concludes that the Change of Zone, should Council approve the annexation, staff has found the criteria for approval have been met as illuminated in the packet material.
 - Commissioner Woolman asks that the criteria for the approval have been met, does that indicate that every single has been met, a single criteria, or what is the extent of that?
 - Anne answers that in the application materials and staff report, the staff has found through the referral process as well as our internal development review process, that the criteria on slide have been met either through findings of

- staff, or through the conditions of approval and development standards in the packet that the applicant would have to meet.
- The North front range is a growing community, and we need construction materials for roads, bridges, houses, sidewalks and schools and the best place to locate construction materials is in a growing area, which Evans is. It may also contribute to keeping development related costs lower than hauling materials from offsite.
 - Colorado Revised Statute, section 34.1.305 illustrates the state's recognition of the importance of preserving reserves of commercial mineral deposits for extraction.
- Chair Myers asks how I-3 works logistically from an enforcement perspective, what if the property sells, what prevents another heavy industrial use coming in that isn't a gravel mining?
 - Anne answers that it boils down to a few things. On any recorded documents, it will be listed on the Change of Zone Platte, in the Development Agreement, in the hearing minutes and in staff's report. The change of zone plat will be recoded with the county and will show up in title work so it will show a restriction on the land use to just natural resources/extraction.
 - Chair Myers asks what triggers the automatic reverting from a process perspective?
 - Anne answers that once the applicant provides us with information from the State Division of Reclamation Mining and safety, that the area in the Floodway has been released from their reclamation bond, that's when the City staff would revert that change of zone back to Agriculture.
 - Chair Myers asks if this is the only gravel mining that Evans has? Is this the first application of its kind to come through?
 - Anne answers so far, yes. There was other gravel mining contemplated through the planning process. About 10-20 years ago Evans did a lot of annexations South of the river. There are not any active mines in the City right now.
 - Chair Myers asks you used the term "paper process" earlier for Change of Zone, can you explain what you meant by that?
 - Anne answers that the act of changing a zone doesn't result in a land use. It is an activity that is on paper only. The use that is contemplated in that zone district could be utilized, but there would need to be a Site plan, or a Special Use Permit process and those processes allow dirt to be moved and structures to be constructed.
 - Chair Myers follows up with it is a pre-requisite to the land use?
 - Anne answers yes.
 - Commissioner Woolman asks if it is currently zoned to be open space, or is it river habitat?
 - Anne answers right now it is in un-incorporated Weld County, and it is zoned Agriculture.
 - Commissioner LeClere asks for this particular site, will there be or has there been a study on if there any protected species that would be displaced or destroyed?
 - Anne answers that Colorado Parks and Wildlife was the referral agency and they provided a referral that they had no concerns. They do want the applicant to continue to work with them as they open their mining operation.

- Commissioner Woolman asks a question about reclamation. What does that look like? Mining is removing material, not putting material back. When we talk about changing from I-3 to anything else, what does the value really look like?
 - Anne answers that the applicant will be able to answer those questions, but the act of mining includes taking off the topsoil, stockpiling the topsoil and seeding it to protect for reclamation purposes.
- Applicant, Steve Ward with Asphalt Specialties is present and presenting a slideshow that gives an overview of what the eventual use will be. The value is in the material that is below the surface, so they don't want the full use of the I-3 zoning.
- Steve does not anticipate anything more than a wash plant on these two parcels and mining. A wash plant is just a conveyor with some sprayers.
- About 60% of this site is Floodway. All the mining activity and vast majority of the piles are going to be down in the mine, so from the street, you will not be able to see much of the aggregate. This is a 30–40-year project, so it will not be aggressive mining. Mining will move progressively to the East over time.
- Asphalt Specialties has submitted an access permit application with Weld County, and it is to propose to move the access point further East. The agreement has been signed and is going to the Board of Commissioners.
- This is a heavy regulated industry for environmental impacts and must comply with multiple state agencies as well as the county.
- Asphalt is the most recycled material in the United States by weight and volume and there is a need for sand and gravel to build the roads in Northern Colorado.
- Steve explains the Firestone plant would be relocating to this site.
- Commissioner LeClere asks that in the processing of this there is burning, and it burns clean. Are there associated smells with the burning?
 - Steve answers that he isn't going to say it doesn't emit odors. There is a bag house that catches the particulates and emissions from the plant and scrubs them before releasing them back into the air.
- Commissioner LeClere asks what is processing?
 - Steve answers that there is a lot to it but making asphalt is processing aggregates. It is larger aggregates that get processed into smaller sizes, and it processes until you get the size that you want. Then there is also cleaning it. There is a wash plant with a conveyor that sprays water to clean.
- Commissioner LeClere asks so you basically have a physical component and a chemical to clean processing?
 - Steve answers that the only time you have chemical component is in the plant itself. In the screening of aggregate materials coming out of the ground is a mechanical process.
- Commissioner LeClere asks if there is a capture of toxic waste since it is in the Floodplain?
 - Steve answers we do not use toxic chemicals in the processing of aggregates. All it is a physical process and then a washing process. The only chemical is the asphalt oil that gets mixed in the burner and that is stored in tanks. It cannot be stored outside since it hardens so quickly. The chemicals we use are heavily regulated.
- Commissioner LeClere asks about the outdoor storage, what is being stored there?
 - It essentially aggregates, sand and gravel.
- Commissioner Woolman asks how much water does washing aggregates take?

- Steve answers that he doesn't have an answer for that. He knows that it takes water and will have to have a water use plant and an augmentation plant since it is heavily regulated.
- Chair Myers asks for a point of clarification, will the water be trucked in the water or bringing in the water? Is there a water meter? Has that been determined?
 - Steve says that it hasn't been determined and are talking to the City about buying water. A lot of water is used, but it won't be polluted.
- Commissioner Woolman asks if the water can be reused after it is used to wash? Any way to recycle the water?
 - Steve answers that he isn't aware of recycling water due to legal issues. There is a discharge permit we must have if we use water from the stream, it must be put back in a certain condition. The water consumption, augmentation and cleaning discharge are heavily regulated.
- Commissioner Woolman asks, when you talk about augmentation, can you explain what you mean by that?
 - Steve says that if we are using water from a source and use more than we put back and that source require it would be augmented, we must buy it from somewhere else to replace what we consume.
- Commissioner Woolman asks that it was said there wouldn't be heavy mining, what is the difference? Explaining that this would be visibly low and heavy mining wasn't removing all the material at once is what you were alluding to? Is it the speed that you remove the aggregate?
 - Steve answers that it is a 30–40-year plan to mine this out. It will not be an aggressive mining operation like others seen. Our plans are to progressively mine from West to East. This is a lot of material for a company our size.
- Commissioner Woolman follows up asking then you are a smaller company by standards?
 - Steve says he wouldn't say they are small, but they are not as big as other companies that are huge.
- Commissioner Woolman asks that this plant is being moved from Firestone, is that because you completed the mining operation?
 - Steve said no, there is no mining in Firestone, just a processing plant. All materials are imported to the site to make asphalt. The difference is here, we wont need trucks coming in with sand, which asphalt is 20-25% sand. He anticipates the first 5-10 years there will be lower truck traffic than in Firestone.
- Commissioner Woolman follows that this can be moved because the mining operations nearby are completed?
 - Steve answers that one of the goals is to get us off leased sites. The Firestone site is leased, and the lease is up. We are looking for opportunities to own the land where operations are to occur.
- Chair Myers says that with the neighborhood meeting, there were heavy concerns about traffic and can also guess smell, noise, and dust. What have you done to mitigate the concerns or how have those been handled?
 - Steve answered that there were a lot of concerns were about traffic and one about the speed limit on County Road 394. Some concerns about dust and noise. The traffic has had extensive discussions with the City staff and CDOT. It

is estimated roughly 30% would go South on 35 and the rest East to 85. LaSalle has made it clear they do not want out trucks going through LaSalle. CDOT has a large project planned where they are going to do a large interchange and it would help us since there won't be a light at 394 and 85. Anticipating most traffic will go South.

**** Public comment is open.**

- Garryl Bush, 6940 WCR 394 states that his main concern is traffic. He explains there are Frac sand trucks already, Envirotech, Feed lots, grain, and cattle trucks. There will be trucks coming in and out and it will be a headache even if they move it down since it is a two-lane road. There is smell and the wind will push it just like the feed lots. There is abundance of wildlife as well. His main concern is the noise and traffic since there is so much already, this will just add to it.
- Connie Shank Nelson, speaking for Ester Shank, own lands right below where the plant would be. She explains that she is concerned about the wildlife and going in and out as well as the smell. She also states that the Flood Zone is a concern. In the previous flood, their oil tanks were wiped out. She doesn't think this is the right atmosphere. The people prior had all farming fields, and a previous gravel pit was turned down by Evans. She also states that since there is hunting now, that will change, and the wildlife will not be there.
- No comments were submitted virtually.

**** Public comment is closed.**

- Applicant, Steve Ward addressed the concerns above and gave an example that there is a picture of an eagle's nest at one of their mines and there is nothing that will affect wildlife.
Steve also addresses the traffic concerns, and it is in their best interest that the traffic works for everyone. They would like a stop light eventually on 394. The traffic counts are projected to be low, around 50 trucks a day over 8 hours, so not that many. There is also a Road Maintenance Agreement with Weld County.
- They spoke with Ester Shank about access to their property since that was her concern, and she will keep access to her property.
- Steve explained the tanks are secure to the ground and impermeable, and the tanks will not be washed away with a flood, they are several hundred tons.
- Anne gives a quick brief about the criteria for approval for the change of zone to Industrial 3, should the land be annexed into the City, just for the extraction use, that is what this motion would either approve or deny.

****Motion/Vote: Motion by Commissioner LeClere, seconded by Commissioner Woolman, all voted in favor, motion carried.**

• **Hunt Brothers Properties Zoning of one parcel, 22-COZ-01: 7:46 pm**

- Presentation from Anne Best-Johnson, Community Development Director for Planning Commission to consider the zoning of one parcel.
- This property is zoned PUD and was annexed into the City. This was zoned through the Platte River Bottom Annexation in 2003 and it was intended for Commercial and Residential purposes. FEMA is expanding the Floodway and it is heavily regulated.
- SPO Notice 1/12/2022, Published Notice in Greeley Tribune 2/4/2022, Sign posted 1/21/2022. Public hearings: Planning Commission 3/22/2022, City Council 4/3/2022.
- This is for the change of zone from PUD to Industrial 3 for natural resources and extraction.

- Chair Myers asks that since it was PUD and part of the gravel mining was contemplated, was the intent always to come back and be re-zoned because gravel mining is only allowed in I-3? Why can't it just remain PUD?
 - Anne answers that the Master Plan for the Platte River Bottom Annexation contemplated land uses, and this particular property was for Commercial and Residential, not land mining.
- Applicant, Steve Ward with Asphalt Specialties presents that since FEMA moved the flood area South, it will not be Residential. This parcel is where it is intended to put the plant itself. The previous parcels would be reverted to Agriculture, but in this parcel, they would want the plant to stay where it is for a year or two after the mining is complete.
- Steve explains recycling as it uses a crushing machine and water to keep the dust down. It has special air permits. 80% of asphalt is recycled.
- Commissioner LeClere asks what benefit is it to our City that we have a plant like this? Do you sell the asphalt to our City for development, or is it sold somewhere else?
 - Steve answers that the best benefit to Evans and surrounding cities is to have a competitor in the market. When there can both the plant and the mine, and can be more local, there can be a better, more competitive price. Having a competitor and because governments are large consumers, the City of Evans benefits like every other buyer. Prices to Evans will probably be on a bid basis, lower than competitors because we are closer.
- Commissioner LeClere is concerned about the amount of homes around the parcel of land.
- Commissioner Woolman asks what is to the South of 394?
 - Steve answers that there are a few houses, yes.
- Commissioner LeClere asks if that is within 200 yards?
 - Steve answers that he didn't do a distance map but thinks about $\frac{3}{4}$ of a mile from the plant.
- Commissioner LeClere states that he wonders if this was zoned PUD for the planned use of the parcel because of the surrounding areas, why change it?
 - Anne replies that at the time it was zoned PUD, it was looking at the future land use map at that moment in time for very dense development at an urban scale. The closest residential structure from the plant to the South measures 300 feet and to the South side of 394 between 650 and 700 feet.
 - Everything in the Floodway will revert back to Agriculture. Everything in the Floodplain will be zoned with what will be compatible at that time when the plant is no longer on site.
- Commissioner Woolman asks if the plan is to start mining right away on this parcel, starting West and moving East?
 - Steve answers that he thinks the dirt will not be moved for mining purposed for at least 15 months since the DRMS is that long. He thinks summer of 2023 at the earliest. The plan for the plant is to be up in November/December timeframe. They want 5 quarters of well monitoring and that just began.
- Chair Myers states that anything that can be done to mitigate for the neighbors would be desirable.
- Chair Myers states it was mentioned having the plant longer, after the land in the Floodway and Floodplain would be reverted when the mining is complete, but the

land where the plant is to remain I-3. Is the idea to continue to have the asphalt plant to continue mining, if permitted.

- Steve answers that it is pure conjecture at this point. We are asking that the I-3 remains if the plant remains. If the plant moves, we revert.
- Chair Myers asks if the DRMS permit has not been approved yet? Where are you at in the process?
 - Steve answers that they are early in the process, and it is a very involved process. He doesn't anticipate having DRMS approval until next year. Their concern isn't the mining, but the reclamation for bonding purposes.
- Chair Myers asks if recycling was a point of contention?
 - Steve answers that it was a concern but didn't follow up with anything.
- Commissioner Woolman asks about screening. Is that mainly screening visually?
 - Steve answers no, there is more. It comes out in the Site Plan process. There are other things you must screen, one of which is the beepers when you back up commercial trucks, so there is screening for equipment noise. There is a different way to alert, and that is being looked into, especially if concerns from neighbors arise.

**** Public comment is open; nobody is present in audience.**

**** Public comment is closed.**

- Chair Myers asks for clarification on Colorado Statue 34-1-305 in terms of how it prohibits the ability to take action.
 - Anne answers that her understanding is that the City cannot permit a subdivision or a commercial development on land that has a mineral reserve in a manner that prohibits the extraction of that reserve. The active zoning doesn't approve land use. In this particular request, the applicant is saying everything in the Floodway reverts back to Agriculture. There is a small footprint of Floodplain that could be used for development, but it would have to go through local floodplain development processes.
- Drew Lyman, City Attorney, explains that if approver would interfere with the present or future deposit the application can't be approved. There isn't evidence this is occurring here, correct?
 - Steve answers that it is just stating a State policy as a State to extract the resources first whenever possible.
- Drew also states the statue also prohibits permanent structures on areas used for extraction, which means this is temporary to extract minerals.
 - Commissioner Woolman asks if that includes the recycling plant?
 - Drew answers it includes any permanent structure on the area of extraction.
- Anne did a calculation and the footprint for the Floodplain area is approximately 12 acres.

****Motion/Vote: Motion by Commissioner Woolman, seconded by Commissioner Farley, all voted in favor, motion carried.**

- **Asphalt Specialties Special Use Permit, 22-SUP-02: 8:39 pm**
 - Presentation from Anne Best-Johnson, Community Development Director for Planning Commission to consider Special Use Permit for Outdoor Storage.
 - In the I-3 zone district, 30% of the property can be used for Outdoor Storage. It is not clear in the Land Use Code, so bring the request to exceed 30% for this application since it is assumed gravel mining will exceed the permitted 30%.

- SPO Notice 1/12/2022, Published Notice in Greeley Tribune 2/4/2022, Sign posted 1/21/2022. Public hearings: Planning Commission 3/22/2022, City Council 4/3/2022.
 - The tallest structure allowed in the I-3 zone is 60 feet without a variance, and the stockpiles won't exceed 25 feet.
 - There is a dust mitigation plan in place.
 - Chair Myers asks if it was intentional to add an upper threshold to this? Now it is 30% or lower, so the exception here is more than 30%.
 - Anne says the reason she didn't is because the nature of the land use is for gravel mining, so the whole site will be utilized for outdoor storage. Wanted to contemplate the underlying request for the site plan with this request to and didn't want the two to conflict with each other.
 - Applicant Steve Ward, Asphalt Specialties says they are requesting this as an abundance of caution and make sure to have the approvals needed.
 - Asphalt Specialties recruits locally, so this will provide jobs.
- ** Public comment is open; nobody is present in audience.**
- ** Public comment is closed.**
- **Motion/Vote: Motion by Commissioner LeClere, seconded by Commissioner Woolman, all voted in favor, motion carried.**

****Public Hearing closed at 9:04 pm and will resume at 9:10 pm for Work Session.**

5. WORK SESSION: 9:10 pm

- **Evans Industrial Park Update:**
 - Presentation by Katelyn Puga, City Planner, on the Industrial Park Land Use and Zoning and the existing conditions as well as success rates with property owners cleaning up their properties and getting the Land Use Permits.
 - The end goal is property owners taking pride and others to come into compliance and to attract that from other property owners as well as update the Land Use Codes.
- **Update on Progress Towards Creating 1041 Regulations for the City:**
 - City of Evans is working with Weld County for Intergovernmental Agreement.
 - Looking into what the code language would be of State interest and intergovernmental agreement. Great item for future work session depending on the outcome of City Council hearing.

6. INFORMATION/DISCUSS: 9:30 pm

- **Election of Chair and Vice-Chair for a One-Year Term**
 - It is time to re-elect for this year's term. Kalen Myers was nominated as Chairman and Mark LeClere as Vice-Chairman.

****Motion/Vote: Motion to vote by Commissioner Woolman, seconded by Commissioner Farley, all voted in favor, motion carried.**

7. MOTION TO ADJOURN: 9:42pm

- **Motion/Vote: Motion to adjourn by Commissioner Woolman, seconded by Commissioner Farley, all voted in favor, motion carried.**

**Asphalt Specialties Co., Inc.
Asphalt Plant and Aggregate Mine
In the Vicinity of WCR 35 and WCR 394**

The Stiles Pit

Narrative Description

**Annexation
Change in Zoning from PUD or Agricultural to I-3
Special Use Permit
Asphalt Plant and related aggregate activities
Including concrete and asphalt crushing and recycling
Stacking and Storage of Material**

February 17, 2022



Aerial Picture of the Stiles Pit site

Steve Ward
 Land Development Manager
 Asphalt Specialties Co., Inc.
 303-594-1433

**Asphalt Plant and Aggregate Mine
 East and West side of planned WCR 35 and WCR 394**

The Stiles Pit

**Narrative Description for
 Annexation
 Change in Zoning from PUD to I-3
 Special Use Permit
 Asphalt Plant and related aggregate activities
 Including concrete and asphalt crushing and recycling
 Stacking and Storage of Material**

Asphalt Specialties Co., Inc. has purchased approximately 148 acres in three parcels along the north side of WCR 394. Parcel A is the western most parcel and is located along the west side of the planned WCR 35 extension north from WCR 394. Parcels B and C are east of the planned WCR extension. Parcel A is located in the City of Evans and is currently zoned PUD. Parcels B and C are currently in unincorporated Weld County. All three parcels were purchased from Fred Stiles earlier this year. This project is being referred to for planning purposes as the Stiles Pit.

Asphalt Specialties will be applying to the City of Evans for the following land use and related approvals for the Stiles Pit:

- Annexation of Parcels B and C into the City of Evans;
- Change in Zoning of Parcel A from PUD to I-3 to allow for altering or storing a natural resource, which use would include an asphalt plant and related aggregate mining and processing activities;
- Zoning of Parcels B and C to I-3 to allow for altering or storing a natural resource, which use would include an asphalt plant and related aggregate mining and processing activities;
- Special Use Permit for all three parcels to facilitate stacking of aggregates and storage of aggregate material on an area greater than 30% of the site.
- Aggregate activities on site will include concrete and asphalt crushing and recycling

Land Use Application

Parcel A is currently zoned for PUD, though no development plan has been submitted to the City of Evans for the site.

We plan to apply to the City of Evans for a series of land use entitlements as follows:

Relocating Asphalt Plant

For approximately 9-10 months each year, Asphalt Specialties will operate an asphalt plant on Parcel A at the Stiles Pit. The plant will be one relocated from its existing location near I-25 in the City of Firestone. Aggregate activities relating to the asphalt operations will include concrete and asphalt crushing and recycling.

It is anticipated that the asphalt plant and related aggregate activities will generate maximum daily round-trip truck traffic of 58 trips per day.

Employment

The asphalt plant will typically employ 3 full-time employees from April through November. The aggregate mining activities will typically employ 5 full-time employees continuously throughout the year.

Hours of Operation

Generally, the hours of operation for the asphalt plant will be the hours of daylight, Monday through Saturday, during the normal paving season from April through November.

The hours of operation for sand and gravel operations will be the hours of daylight, Monday through Saturday, throughout the year.

Exceptions to these hours are made for normal holidays. In addition, equipment service personnel may be on-site on Sundays and after daylight hours to conduct maintenance and repairs.

Lot Surface

The vast majority of the site will be mined. Approximately 7 acres along the southern edge of the site will be used for the asphalt plant and related aggregate stacking. Aggregate stockpiles are typically limited to 25' in height. The asphalt plant and associated equipment will be placed on concrete pads. The internal access and circulation roads will be dirt, gravel, or recycled asphalt. No significant structures are anticipated to be built at the Stiles Pit other than the asphalt plant itself.

Stormwater and Utilities

Stormwater will either infiltrate into the ground or be directed into our pit. No stormwater discharge will be discharged from the site.

Drinking water for employees will be bottled. No on-site wastewater treatment system is planned for the site given the mining activities that will be taking place. Bathroom facilities for employees will be of a temporary design, with wastewater vaulted and removed by a licensed contractor.

Water requirements for asphalt production and aggregate mining are expected to be limited. Water for these purposes will be leased for the duration of the asphalt and mining operations on the site.

Atmos Energy provides utility services in the area and has indicated they can serve the Stiles Pit site.

Access From WCR 394

Ingress and egress to and from the site is proposed for WCR 394 and WCR 35. The majority of truck traffic at the site is expected to enter from east-bound WCR 394 and exit either west-bound on WCR 394 or southbound on WCR 35. Trucks will consist of a mix of approximately 50% aggregate hauling tractor-trailers, and 50% asphalt trucks.

Surrounding Properties

The site is located in an agricultural area of Weld County. The initial activity at the Stiles Pit will take place on Parcel A. It is anticipated that within 8-10 years, aggregate mining at the Stiles Pit will be expanded to the east across the WCR 35 ROW on Parcels B and C. Other aggregate mining operations currently exist in the general area of the proposed Stiles Pit. Other trucking operations are also common.



Looking West from the
WCR 35 ROW.



Looking East from the
WCR 35 ROW.



Looking North along the
WCR 35 ROW. The initial
Stiles Pit site is to the left.



Looking South along the
WCR 35 ROW. The initial
Stiles Pit site is to the
. . . .

Access From WCR 394 – AP21-00767

Asphalt Specialties Co., Inc. has applied for an Access Permit from Weld County. This permit application is currently in process. The County has provided a draft Improvements & Road Maintenance Agreement. We are currently negotiating certain requested changes in the draft agreement.

Neighborhood Meeting

A neighborhood meeting for the proposed annexation, re-zoning and special use permit was held via Zoom on October 4, 2021 at 5:00 pm.

Notices were mailed more than ten days ahead of the scheduled meeting to all property owners and residents identified in a data set provided by Weld County County.

The mailed notice provided a unique email address to which inquiries could be sent ahead of the neighborhood meeting. No email messages were received prior to the neighborhood meeting.

The meeting started promptly at 5:00 pm.

Steve Ward, Land Development Manager for Asphalt Specialties Co., Inc., the applicant started the meeting.

At least four people joined the meeting.

Albert Bush expressed concern about the increase in traffic on WCR 394. He also inquired as to whether we proposed to do asphalt and concrete recycling. We answered that we did intend to conduct aggregate recycling operations as part of the project.

Heidi Romero, 17509 CR 34, representing her father who owns a home adjoining the project, asked about setbacks, aggregate stacking heights and timing for construction of the asphalt plant.

Brian Johnson, an adjoining homeowner, was concerned about traffic and asked if the speed limit on WCR 394 could be lowered.

There was a general consensus that a traffic light at the intersection of WCR 394 and Hwy 85 would be helpful.

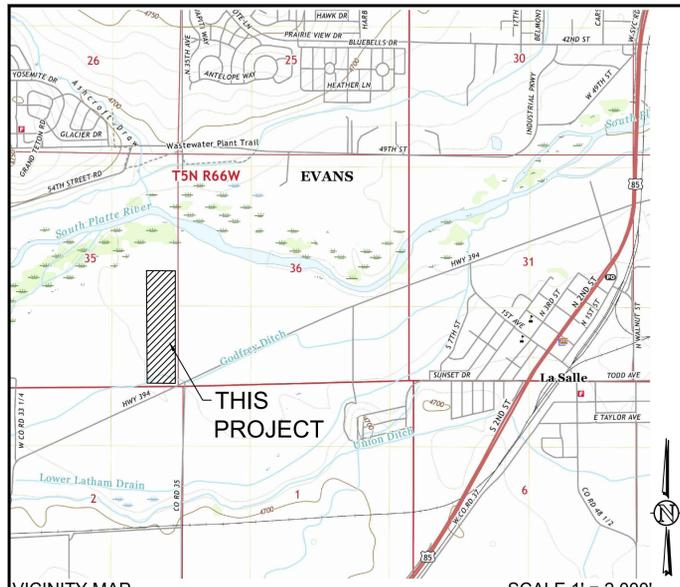
No one else joined the meeting. There was a technical problem with Zoom and the meeting was cut off at 5:38 pm. The meeting was re-joined a few minutes later but only a few of the initial participants were still on line. The meeting then adjourned.

Access From WCR 394 – AP21-00767

Asphalt Specialties Co., Inc. has applied for an Access Permit from Weld County. This permit application is currently in process. The County has provided a draft Improvements & Road Maintenance Agreement. We are currently negotiating certain requested changes in the draft agreement.

ZONING AMENDMENT PLAN - COZ22-####

PART OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE P.M.,
CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO
PUD TO I-3 (HEAVY INDUSTRIAL)



VICINITY MAP
SW 1/4, S36, T5N, R66W, 6th P.M.
SHOWN VICINITY MAP TAKEN FROM USGS QUAD MAPS - LA SALLE, CO
SCALE 1" = 2,000'

ZONING PLAN (COZ21-####) NOTES:

- 1)

LEGAL DESCRIPTION

PARCEL I:
LOT B, RECORDED EXEMPTION NO. 0959-36-03 RECX17-0197, RECORDED JANUARY 17, 2018 AT RECEPTION NO. 4368408, LOCATED IN THE W 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

PARCEL II:
LOT B, AMENDED RECORDED EXEMPTION NO. 0959-36-03 1AMREC18-85-803, RECORDED SEPTEMBER 18, 2019 AT RECEPTION NO. 4524591, LOCATED IN THE SW 4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO EXCEPT THAT PARCEL DEEDED JUNE 18, 2018 AT RECEPTION NO. 4407999

PARCEL III:
THE E 1/2 OF THE E 1/2 OF THE SE 1/4 OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, EXCEPT THAT PART OF THE E 1/2 OF THE SE 1/4 LYING SOUTH OF A LINE BEGINNING AT THE SE CORNER OF SAID SECTION 35, THENCE NORTH 00 DEGREES 00 SECONDS WEST 172.15 FEET; THENCE NORTH 86 DEGREES 00 SECONDS WEST TO THE WEST LINE OF THE E 1/2 OF SAID SECTION 35, COUNTY OF WELD, STATE OF COLORADO. EXCEPTING FROM ABOVE PARCELS THE RIGHT OF WAY FOR FOR 35TH AVENUE CONTAINED IN INSTRUMENTS RECORDED DECEMBER 29, 2003 AT RECEPTION NO. 3139615, 3139614 AND JUNE 20, 2006 AT RECEPTION NO. 3397576

BASIS of BEARING & BENCHMARK

PROJECT BENCHMARK:
ALL ELEVATIONS ARE BASED UPON STATIC GPS OBSERVATIONS POST PROCESSED THROUGH THE JAVAD DATA PROCESSING ONLINE SERVICE (DPOS) RESULTING IN THE SOUTHWEST CORNER OF SECTION 36, T 5 N, R 66 W, BEING A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24607, HAVING AN ELEVATION OF 4670.83 NAVD 88 (GEOID 18)

BASIS OF BEARINGS:
ALL BEARINGS SHOWN HEREON ARE BASED UPON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE (0501) WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., IN WELD COUNTY, COLORADO BEARING NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, WITH ALL BEARINGS SHOWN HEREON RELATIVE THERETO.

REVISIONS	SHEET	INDEX
0	1	COVER SHEET
0	2	ZONING PLAN

0 INITIAL RELEASE

JANUARY 27, 2022

SURVEYOR'S STATEMENT:

I, CURTIS D. HOOS, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS REZONING PLAT WAS PREPARED UNDER MY DIRECT SUPERVISION, AND THAT THE PLAT IS AN ACCURATE REPRESENTATION THEREOF TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I, Curtis D. Hoos
Colorado Registered Professional Land Surveyor #37971

PROPERTY OWNER'S APPROVAL:

We, the undersigned, being the sole owners in fee of the above described parcel of land, do hereby request the zoning as shown on the attached map.

Steve Ward Sharon A. Baumgartner

NOTARIAL CERTIFICATE

STATE OF _____
COUNTY OF _____ ss

The foregoing instrument was acknowledged before me by

this _____ day of _____, A.D. 20____.

My commission expires _____ Notary Public

PLANNING COMMISSION CERTIFICATE:

This is to certify that the Weld County Planning Commission does hereby recommend to the Board of County Commissioners, Weld County for their confirmation, approval and adoption of this Zone Change as shown and described hereon

this _____ day of _____, A.D. 20____.

Chairman, Planning Commission

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This is to certify that the Board of County Commissioners, Weld County, State of Colorado, do hereby confirm, approve and adopt this Zone Change as shown and described hereon

this _____ day of _____, A.D. 20____.

Chairman, County Commission

Attest:
Weld County Clerk to the Board

By: _____ Deputy Clerk to the Board Date

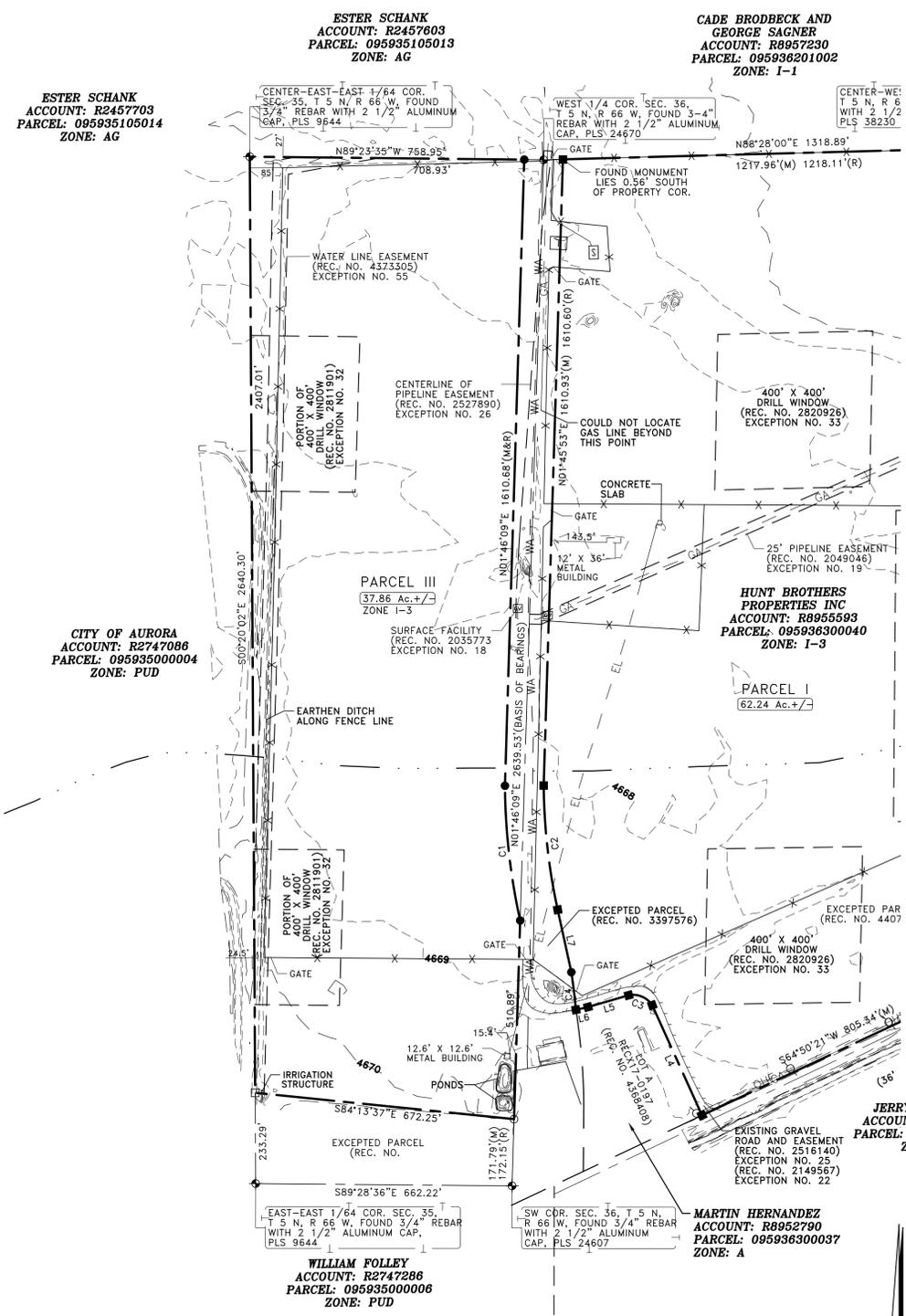
UNCC
CALL BEFORE YOU DIG
1-800-922-1987
Utility Notification Center of Colorado
Administrative Office
16361 Table Mountain Parkway Golden, Colorado 80602
Office: 303-232-1991 Fax: 303-234-1712
Toll-Free: 1-800-922-1987
CALL 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, CHANGE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES

PREPARED FOR:
ASPHALT SPECIALTIES COMPANY, INC.
STEVE WARD
10100 DALLAS ST. HENDERSON, CO 80640
(303)594-1433

PREPARED BY:
Western Engineering Consultants, inc LLC
127 S. DENVER AVE
FT. LUPTON, CO 80621
www.westerneci.com
email@westerneci.com
(720) 685-9951
FAX (720) 294-1330

PROJECT NO: 01-0326.004.00
INITIAL PLAN RELEASE: January 27, 2022
CURRENT PLAN RELEASE: January 27, 2022
SHEET: **1 of 2**

T:\0326_004_00_ASCI-EVANS\DWG\CD\0326-004-WEC-CD-ZONING_1/27/2022 4:52:36 PM_AutoCAD PDF (High Quality Print).p3 WEC 24-36 WEC 24-36



INDUSTRIAL ZONE DISTRICT BULK STANDARDS*

A. MINIMUM SETBACK: TWENTY-FIVE (25) FEET (MEASURED FROM RIGHT-OF-WAY).**

B. MINIMUM OFFSET: TEN (10) FEET OR ONE (1) FOOT FOR EVERY TWO (2) FEET OF BUILDING HEIGHT, WHICHEVER IS GREATER.

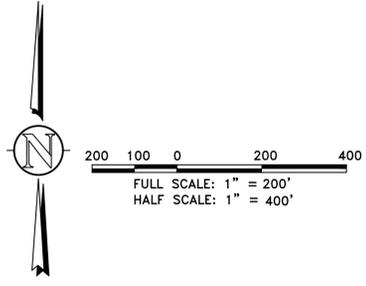
C. NO OCCUPIED BUILDING OR STRUCTURE SHALL BE CONSTRUCTED WITHIN TWO HUNDRED (200) FEET OF ANY TANK BATTERY, WITHIN ONE HUNDRED FIFTY (150) FEET OF ANY OIL AND GAS WELLHEAD, OR WITHIN TWENTY-FIVE (25) FEET OF ANY PLUGGED OR ABANDONED OIL AND GAS WELL.

D. MAXIMUM LOT COVERAGE: NO MORE THAN EIGHTY-FIVE PERCENT (85%) OF THE TOTAL AREA OF A LOT IN ANY INDUSTRIAL ZONE DISTRICT SHALL BE COVERED.

*PER WELD COUNTY CODE SECTIONS 23.3.340.A-D.
**NO ROW EXISTING ALONG THIS PROPERTY.

SYMBOL LEGEND			
41	45 DEG BEND	+	THRUST BLOCK TB
42	22.5 DEG BEND	+	GATE VALVE GV
+	RESTRAINED PLUG	+	CURB STOP
+	RESTRAINED TEE	+	PIPE CROSSING
+	WATER METER	+	MANHOLE
+	RESTRAINED CROSS	+	MANHOLE W/ FLOW DIRECTION
+	FIRE HYDRANT	+	ROOF DRAIN
+	RESTRAINED VALVE	+	
+	EXISTING CONC	+	PROPOSED GRAVEL
+	EXISTING ASPHALT	+	PROPOSED CONC
+		+	PROPOSED ASPHALT

LINETYPE LEGEND	
---	LOT / PROPERTY / SECTION LINE
---	RIGHT OF WAY LINE
---	EASEMENT
---	SETBACK
---	TO BE ABANDONED LOT LINE
---	EXISTING BUILDING, CURB
---	EDGE OF ASPHALT or GRAVEL RD
---	CHAINLINK FENCE
---	WIRE FENCE
---	POND WQ W/S
---	SWALE
---	EXISTING OVERHEAD ELEC
---	EXISTING ELECTRICAL LINE
---	EXISTING STORM LINE
---	EXISTING SANITARY LINE
---	EXISTING WATER LINE
---	EXISTING GAS LINE
---	EXISTING FIBER OPTIC LINE
---	EXISTING TELEPHONE LINE



WESTERN ENGINEERING CONSULTANTS, INC LLC
 127 S. DENVER AVENUE
 FORT LUPTON, CO 80621
 www.westerneci.com
 email@westerneci.com
 (720) 685-8951
 FAX (720) 294-1350

NO.	REVISION	DATE	BY
1	INITIAL RELEASE	01/27/22	CFC

ASPHALT SPECIALTIES COMPANY, INC.
 CONTACT: STEVE WARD
 10100 DALLAS STREET
 HENDERSON, CO 80640
 MOBILE (303)594-1433

ZONING PLAN
ASPHALT SPECIALTIES COMPANY, INC.
 CITY OF EVANS, WELD COUNTY, COLORADO

Dig Safely.
 CALL UNCC
 THREE WORKING DAYS BEFORE YOU DIG
1-800-922-1987
 www.uncc.org
 UTILITY NOTIFICATION CENTER OF COLORADO

FOR REVIEW

ONLY VALID FOR CONSTRUCTION OF SCALE & ORIGINAL SIGNATURE FOR EACH SHEET.
 INITIAL PLAN
 RELEASE: 01/27/22
 DESIGNED BY: CFC
 DRAWN BY: CFC
 CHECKED BY: CFC
 PROJECT NO.
01-0326.004.00
 DOC CON #
0002-EXCON
 SHEET
2 OF 2

ALTA/NSPS LAND TITLE SURVEY

Part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 35 and the Southwest 1/4 of Section 36, Township 5 North, Range 66 West of the 6th P.M., County of Weld, State of Colorado

Sheet 1 of 3

PROPERTY DESCRIPTION:

PARCEL I:

LOT B, RECORDED EXEMPTION NO. 0959-36-03 RECX17-0197, RECORDED JANUARY 17, 2018 AT RECEPTION NO. 4368408, LOCATED IN THE W 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

PARCEL II:

LOT B, AMENDED RECORDED EXEMPTION NO. 0959-36-03 1AMREC18-85-803, RECORDED SEPTEMBER 18, 2019 AT RECEPTION NO. 4524581, LOCATED IN THE SW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

EXCEPT THAT PARCEL DEEDED JUNE 18, 2018 AT RECEPTION NO. 4407999

PARCEL III:

THE E 1/2 OF THE E 1/2 OF THE SE 1/4 OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, EXCEPT THAT PART OF THE E 1/2 OF THE SE 1/4 LYING SOUTH OF A LINE BEGINNING AT THE SE CORNER OF SAID SECTION 35; THENCE NORTH 00 DEGREES 00 SECONDS WEST 172.15 FEET; THENCE NORTH 86 DEGREES 00 SECONDS WEST TO THE WEST LINE OF THE E 1/2 OF THE E 1/2 OF SAID SECTION 35, COUNTY OF WELD, STATE OF COLORADO.

EXCEPTING FROM ABOVE PARCELS THE RIGHT OF WAY FOR FOR 35TH AVENUE CONTAINED IN INSTRUMENTS RECORDED DECEMBER 29, 2003 AT RECEPTION NO. 3139615, 3139614 AND JUNE 20, 2006 AT RECEPTION NO. 3397576

NOTES:

1) BASIS OF BEARING: ALL BEARINGS SHOWN HEREON ARE BASED UPON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE (0501) WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., IN WELD COUNTY, COLORADO BEARING NORTH 01°46'09" EAST, BEING MONUMENTED ON THE NORTH AND SOUTH END BY A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24670, WITH ALL BEARINGS SHOWN HEREON RELATIVE THERETO.

2) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.

3) CERTIFICATION DEFINED: THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR, IN THE PRACTICE OF LAND SURVEYING, CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OF FINDINGS WHICH ARE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.

4) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTIONS BASED UPON A DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER 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.

5) ALL DISTANCES SHOWN HEREON ARE MEASURED GROUND DISTANCES REPORTED IN U.S. SURVEY FEET.

6) THE SUBJECT PROPERTY SHOWN HEREON HAS A TOTAL ACREAGE OF 152.28 ACRES, MORE OR LESS.

7) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP DATED JANUARY 20, 2016, MAP NO 050123C1728E, THE SUBJECT PROPERTY SHOWN HEREON LIES WITHIN FLOOD ZONE 'A' (SPECIAL FLOOD HAZARD AREAS WITHOUT BASE FLOOD ELEVATIONS DETERMINED) AND ZONE 'X' (AREAS OF MINIMAL FLOOD HAZARD).

8) UTILITY LOCATIONS SHOWN HEREON ARE BASED UPON FIELD EVIDENCE TOGETHER WITH UTILITY LOCATES PROVIDED BY THE UTILITY NOTIFICATION CENTER OF COLORADO, ACCURATE UNDERGROUND UTILITY LOCATING SERVICE, AND UTILITY MAPS PROVIDED BY DCP MIDSTREAM AND THE CENTRAL WELD COUNTY WATER DISTRICT

9) SEVERAL GAS FLOW LINES AND PIPELINES WERE NOT ABLE TO BE LOCATED AS PART OF THE FIELD SURVEY AS NO SIGNAL WAS PRESENT ON THE UTILITY OR SIGNALS WERE LOST. ACCORDING TO THE PROPERTY OWNER, MANY OF THE OIL/GAS FACILITIES ON THE SUBJECT PROPERTY HAVE BEEN AND ARE IN THE PROCESS OF BEING ABANDONED.

10) ALL ELEVATIONS SHOWN HEREON ARE BASED UPON STATIC GPS OBSERVATIONS POST PROCESSED THROUGH THE JAVAD DATA PROCESSING ONLINE SERVICE (DPOS), RESULTING IN THE SOUTHWEST CORNER OF SECTION 36, T 5 N, R 66 W, BEING A 3/4" REBAR WITH 2 1/2" ALUMINUM CAP, PLS 24607, HAVING AN ELEVATION OF 4670.83 NAVD 88 (GEOID 18).

11) ALL CONTOURS SHOWN HEREON ARE AT ONE FOOT INTERVALS AND ARE THE RESULT OF AERIAL MAPPING PROVIDED BY PRECISION AEROWORKS.

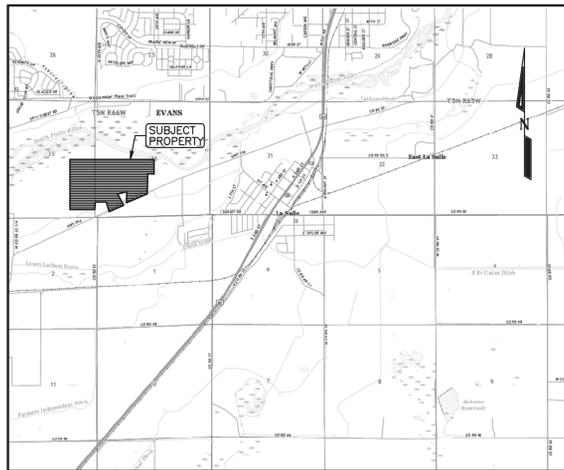
SURVEYOR'S STATEMENT:

TO: ROLLING T. LIVESTOCK, LLC, A COLORADO LIMITED LIABILITY COMPANY; ASPHALT SPECIALTIES COMPANY; LAND TITLE GUARANTEE COMPANY; OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY;

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2016 THE MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDED ITEMS 1, 3, 4, 5, 7A, B, & 11 OF TABLE A THEREOF. THE FIELD WORK FOR THIS SURVEY WAS COMPLETED ON JUNE 22, 2020.

I FURTHER CERTIFY THAT I, CURTIS D. HOOS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THIS PLAT ACCURATELY REPRESENTS SAID SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

CURTIS D. HOOS, PLS 37971
FOR AND ON BEHALF OF:
AMERICAN WEST LAND SURVEYING CO.
A COLORADO CORPORATION



VICINITY MAP: NTS

EXCEPTIONS:

AS DESCRIBED IN TITLE COMMITMENT PROVIDED BY LAND TITLE GUARANTEE COMPANY DATED APRIL 24, 2020, ORDER NO. FCC25174676:

1-7) GENERAL EXCEPTIONS.

8. RIGHT OF WAY FOR COUNTY ROADS 30 FEET ON EITHER SIDE OF SECTION AND TOWNSHIP LINES, AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS FOR WELD COUNTY, RECORDED OCTOBER 14, 1989 IN BOOK 86 AT PAGE 273. (DOES NOT AFFECT THE PROPERTY - ACCORDING TO PATENT DATES, THE SUBJECT PROPERTY WAS NOT IN THE PUBLIC DOMAIN AT THE TIME OF THIS RESOLUTION)

9. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT RECORDED OCTOBER 17, 1894, IN BOOK 51 AT PAGE 264. (DOES NOT AFFECT THE PROPERTY)

10. RIGHT OF WAY EASEMENT AS GRANTED TO THE STATE OF COLORADO IN INSTRUMENT RECORDED SEPTEMBER 15, 1952, IN BOOK 1339 AT PAGE 633 (SHOWN ON THE SURVEY)

11. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED MARCH 4, 1959 IN BOOK 1526 AT PAGE 39 AND 41 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

12. RIGHT OF WAY EASEMENT AS GRANTED TO CENTRAL WELD COUNTY WATER DISTRICT IN INSTRUMENT RECORDED MAY 19, 1967, UNDER RECEPTION NO. 1503608 (DOES NOT AFFECT THE PROPERTY)

13. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT AND EASEMENT RECORDED JUNE 16, 1972 AT RECEPTION NO. 1591778 (DOES NOT AFFECT THE PROPERTY)

14. OIL AND GAS LEASE RECORDED OCTOBER 21, 1982 UNDER RECEPTION NO. 1907065 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

15. OIL AND GAS LEASE RECORDED APRIL 06, 1983 UNDER RECEPTION NO. 1922656 IN BOOK 992 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (DOES NOT AFFECT THE PROPERTY)

WELLBORE SPECIFIC DECLARATION OF POOLING RECORDED MAY 13, 2015 UNDER RECEPTION NO. 4088896

16. OIL AND GAS LEASE RECORDED SEPTEMBER 29, 1983 UNDER RECEPTION NO. 1942031 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (NOES NOT AFFECT THE PROPERTY)

17. OIL AND GAS LEASE RECORDED DECEMBER 13, 1985 UNDER RECEPTION NO. 2035750 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

DECLARATION OF POOLING AND UNITIZATION RECORDED APRIL 24, 2014 UNDER RECEPTION NO. 4011449.

18. OIL AND GAS LEASE RECORDED DECEMBER 13, 1985 UNDER RECEPTION NO. 2035773 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - WELLS AND TANK BATTERIES HAVE BEEN REMOVED FROM THE PROPERTY)

WELLBORE SPECIFIC DECLARATION OF POOLING RECORDED MAY 4, 2010 UNDER RECEPTION NO. 3691124.

19. RIGHT OF WAY EASEMENT AS GRANTED TO ASSOCIATED NATURAL GAS, INC. IN INSTRUMENT RECORDED APRIL 07, 1986, UNDER RECEPTION NO. 2049046. (AFFECTS SECTION 35 AND 36)

20. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED JUNE 02, 1986 AT RECEPTION NO. 1055554 IN BOOK 1114. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

21. RIGHT OF WAY EASEMENT AS GRANTED TO ASSOCIATED NATURAL GAS, INC. IN INSTRUMENT RECORDED APRIL 12, 1986, UNDER RECEPTION NO. 2137583 (DOES NOT AFFECT THE PROPERTY)

22. RIGHT OF WAY EASEMENT AS GRANTED TO ELK EXPLORATION IN INSTRUMENT RECORDED JULY 27, 1988, UNDER RECEPTION NO. 2149567 (SHOWN ON THE SURVEY)

23. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED AUGUST 23, 1994 AT RECEPTION NO. 2403621 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. AFFECTS THE PROPERTY - NOT PLOTTABLE)

24. RIGHT OF WAY EASEMENT AS GRANTED TO ASSOCIATED NATURAL GAS INC IN INSTRUMENT RECORDED NOVEMBER 23, 1994, UNDER RECEPTION NO. 2416511 IN BOOK 1468. (DOES NOT AFFECT THE PROPERTY)

25. RIGHT OF WAY EASEMENT AS GRANTED TO GETTY OIL AND GAS CORP IN INSTRUMENT RECORDED OCTOBER 17, 1996, UNDER RECEPTION NO. 2516140 (SHOWN ON THE SURVEY)

26. RIGHT OF WAY EASEMENT AS GRANTED TO PANENERGY FIELD SERVICES IN INSTRUMENT RECORDED JANUARY 06, 1997, UNDER RECEPTION NO. 2527890 (SHOWN ON THE SURVEY)

27. RIGHT OF WAY EASEMENT AS GRANTED TO DUKE ENERGY FIELD SERVICES INC IN INSTRUMENT RECORDED JULY 22, 1998, UNDER RECEPTION NO. 2627623. (DOES NOT AFFECT THE PROPERTY)

EXCEPTIONS CONTINUED:

28. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED JANUARY 7, 1999 AT RECEPTION NO. 2665464 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

29. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEEDS RECORDED JULY 9, 1999 AT RECEPTION NOS. 2754792, 2705616, 2705617, 2705618, 2705619, 2705620, 2705621, 2705622, 2705623, 2705624, 2705625, 2705626, 2705627, 2705628 AND 2705629 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (DOES NOT AFFECT THE PROPERTY)

30. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED SEPTEMBER 17, 1999 AT RECEPTION NO. 2721283 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

31. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED MARCH 10, 2000 AT RECEPTION NO. 2754792 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

32. NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE IN INSTRUMENT RECORDED DECEMBER 07, 2000 UNDER RECEPTION NO. 2811901 (SHOWN ON THE SURVEY)

33. TERMS, CONDITIONS AND PROVISIONS OF NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE RECORDED JANUARY 23, 2001 AT RECEPTION NO. 2820926. (SHOWN ON SURVEY)

34. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED FEBRUARY 2005 AT RECEPTION NO. 3258855 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

35. REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT AS EVIDENCED BY INSTRUMENT RECORDED OCTOBER 15, 2007 UNDER RECEPTION NO. 3511023. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

36. REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT AS EVIDENCED BY INSTRUMENT RECORDED DECEMBER 21, 2007 UNDER RECEPTION NO. 3525268. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

37. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED JULY 27, 2009 AT RECEPTION NO. 3638592 (AFFECTS THE PROPERTY - NOT PLOTTABLE)

38. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT AS EVIDENCED BY INSTRUMENT RECORDED SEPTEMBER 29, 2010, UNDER RECEPTION NO. 3721790. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

39. RIGHT OF WAY EASEMENT AS GRANTED TO SORIN NATURAL RESOURCE PARTNERS, LLC IN INSTRUMENT RECORDED MAY 17, 2017, UNDER RECEPTION NO. 4302974 (DOES NOT AFFECT THE PROPERTY)

40. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY IN FAVOR OF THE PUBLIC WHICH MAY EXIST OVER THAT PORTION OF SAID LAND LYING BENEATH THE WATER OF THE SOUTH PLATTE RIVER. (SHOWN ON THE SURVEY)

41. ANY INCREASE OR DECREASE IN THE AREA OF THE LAND AND ANY ADVERSE CLAIM TO ANY PORTION OF THE LAND WHICH HAS BEEN CAUSED BY OR CAUSED BY ACCRETION OR RELICTION, WHETHER NATURAL OR ARTIFICIAL; AND THE EFFECT OF THE GAIN OR LOSS OF AREA BY ACCRETION OR RELICTION UPON THE MARKETABILITY OF THE TITLE OF THE LAND. (SHOWN ON THE SURVEY)

42. ENCROACHMENTS AND RIGHT OF WAY FOR THE SOUTH PLATTE RIVER AS DISCLOSED BY MAPS MAINTAINED BY THE WELD COUNTY ASSESSORS OFFICE. (SHOWN ON THE SURVEY)

NOTE: THE FOLLOWING NOTICES PURSUANT TO CRS 9-1.5-103 CONCERNING UNDERGROUND FACILITIES HAVE BEEN FILED WITH THE CLERK AND RECORDER. THESE STATEMENTS ARE GENERAL AND DO NOT NECESSARILY GIVE NOTICE OF UNDERGROUND FACILITIES WITHIN THE SUBJECT PROPERTY:

- (A) MOUNTAIN BELL TELEPHONE COMPANY, RECORDED OCTOBER 1, 1981 AT RECEPTION NO. 1870705.
- (B) WESTERN SLOPE GAS COMPANY, RECORDED MARCH 9, 1983 AT RECEPTION NO. 1919757.
- (C) ASSOCIATED NATURAL GAS, INC., RECORDED JULY 20, 1984 AT RECEPTION NO. 1974810 AND RECORDED OCTOBER 1, 1984 AT RECEPTION NO. 1983584 AND RECORDED MARCH 3, 1988 AT RECEPTION NO. 2132709 AND RECORDED APRIL 10, 1989 AT RECEPTION NO. 2175917.
- (D) PANHANDLE EASTERN PIPE LINE COMPANY, RECORDED OCTOBER 1, 1981 AT RECEPTION NO. 1870756 AND RECORDED JUNE 26, 1989 AT RECEPTION NO. 2059722.
- (E) COLORADO INTERSTATE GAS COMPANY, RECORDED AUGUST 31, 1984 AT RECEPTION NO. 1979784.
- (F) UNION RURAL ELECTRIC ASSOCIATION, INC., RECORDED OCTOBER 5, 1981 AT RECEPTION NO. 1871004.
- (G) WESTERN GAS SUPPLY COMPANY, RECORDED APRIL 2, 1985 AT RECEPTION NO. 2004300.
- (H) THE SURETY COMPANY OF COLORADO, RECORDED NOVEMBER 9, 1981 AT RECEPTION NO. 1874084.
- (I) ST. VRAIN SANITATION DISTRICT, RECORDED DECEMBER 14, 1988 AT RECEPTION NO. 2164975.
- (J) LEFT HAND WATER DISTRICT, RECORDED AUGUST 28, 1990 AT RECEPTION NO. 2224977.
- (K) UNITED POWER, INC., RECORDED JANUARY 24, 1991 AT RECEPTION NO. 2239296.
- (L) WIGGINS TELEPHONE ASSOCIATION RECORDED OCTOBER 14, 1992 AT RECEPTION NO. 2306829.

43. RIGHT OF WAY EASEMENT AS GRANTED TO WELD COUNTY IN INSTRUMENT RECORDED SEPTEMBER 15, 1952, IN BOOK 1339 AT PAGE 642. (SHOWN ON THE SURVEY)

44. OIL AND GAS LEASE RECORDED JUNE 11, 1985 UNDER RECEPTION NO. 2012984 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

DECLARATION OF POOLING RECORDED APRIL 24, 2014 UNDER RECEPTION NO. 4011449 AND AMENDMENT RECORDED OCTOBER 14, 2016 UNDER RECEPTION NO. 4243851.

45. RIGHT OF WAY EASEMENT AS GRANTED TO NATURAL GAS ASSOCIATES IN INSTRUMENT RECORDED JULY 08, 1985, UNDER RECEPTION NO. 2016020. (SHOWN ON THE SURVEY)

46. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF RECORDED EXEMPTION NO. 0959-36-3-REB03 RECORDED NOVEMBER 13, 1985 UNDER RECEPTION NO. 2032075. (SHOWN ON SURVEY)

47. RIGHT OF WAY EASEMENT AS GRANTED TO NATURAL GAS ASSOCIATES, INC. IN INSTRUMENT RECORDED DECEMBER 17, 1986, UNDER RECEPTION NO. 2081012. (SHOWN ON THE SURVEY)

48. RESERVATION OF MINERALS AND MINERAL RIGHTS AS CONTAINED IN DEED RECORDED OCTOBER 2, 1989 AT RECEPTION NO. 2193475 AND ANY AND ALL INTERESTS THEREIN OR RIGHTS THEREUNDER. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

49. RIGHT OF WAY EASEMENT AS GRANTED TO SNYDER OIL CORPORATION IN INSTRUMENT RECORDED JULY 07, 1995, UNDER RECEPTION NO. 2445647. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

50. RIGHT OF WAY EASEMENT AS GRANTED TO SNYDER OIL CORPORATION IN INSTRUMENT RECORDED JULY 07, 1995, UNDER RECEPTION NO. 2445648. (AFFECTS THE PROPERTY - NOT PLOTTABLE)

51. ROAD RIGHT OF WAY AS RESERVED IN DEED RECORDED DECEMBER 23, 2003 AT RECEPTION NO. 3138232. (DOES NOT AFFECT THE PROPERTY - THE PROPERTY WAS RECONFIGURED BY AMREC18-85-803 WHICH ALLOWS ROAD AND ACCESS TO FALL ENTIRELY WITHIN LOT A OF 1AMREC18-85-803)

52. ENCROACHMENTS AND RIGHT OF WAY FOR THE ROAD TO OIL AND GAS WELL AND OIL AND GAS WELL LOCATED UPON SUBJECT PROPERTY AS DISCLOSED BY MAPS MAINTAINED BY THE WELD COUNTY ASSESSORS OFFICE. (SHOWN ON SURVEY)

53. THE RIGHTS OF ACCESS TO AND FROM THE PREMISES AFFORDED BY THIS POLICY IS INSURED AS LONG AS ALL PARCELS THAT COMPRISE SAID PREMISES REMAIN IN COMMON OWNERSHIP. (ACCESS ROAD IS SHOWN ON THE SURVEY)

54. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING FACTS SHOWN ON IMPROVEMENT LOCATION CERTIFICATE CERTIFIED AUGUST 14, 2017 PREPARED BY KING SURVEYORS, JOB #20170559. SAID DOCUMENT STORED AS OUR ESI 34074689. (SHOWN ON THE SURVEY)

A) FENCE LINES DO NOT COINCIDE WITH PROPERTY LINES (SHOWN ON SURVEY)

55. TERMS, CONDITIONS AND PROVISIONS OF EASEMENT DEED AND AGREEMENT RECORDED FEBRUARY 06, 2018 AT RECEPTION NO. 4373305. (SHOWN ON SURVEY)

56. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF EXEMPTION RECORDED JANUARY 17, 2018 UNDER RECEPTION NO. 4368408. (SHOWN ON SURVEY)

57. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF EXEMPTION RECORDED SEPTEMBER 18, 2019 UNDER RECEPTION NO. 4524591. (SHOWN ON SURVEY)



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SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: JUNE 22, 2020

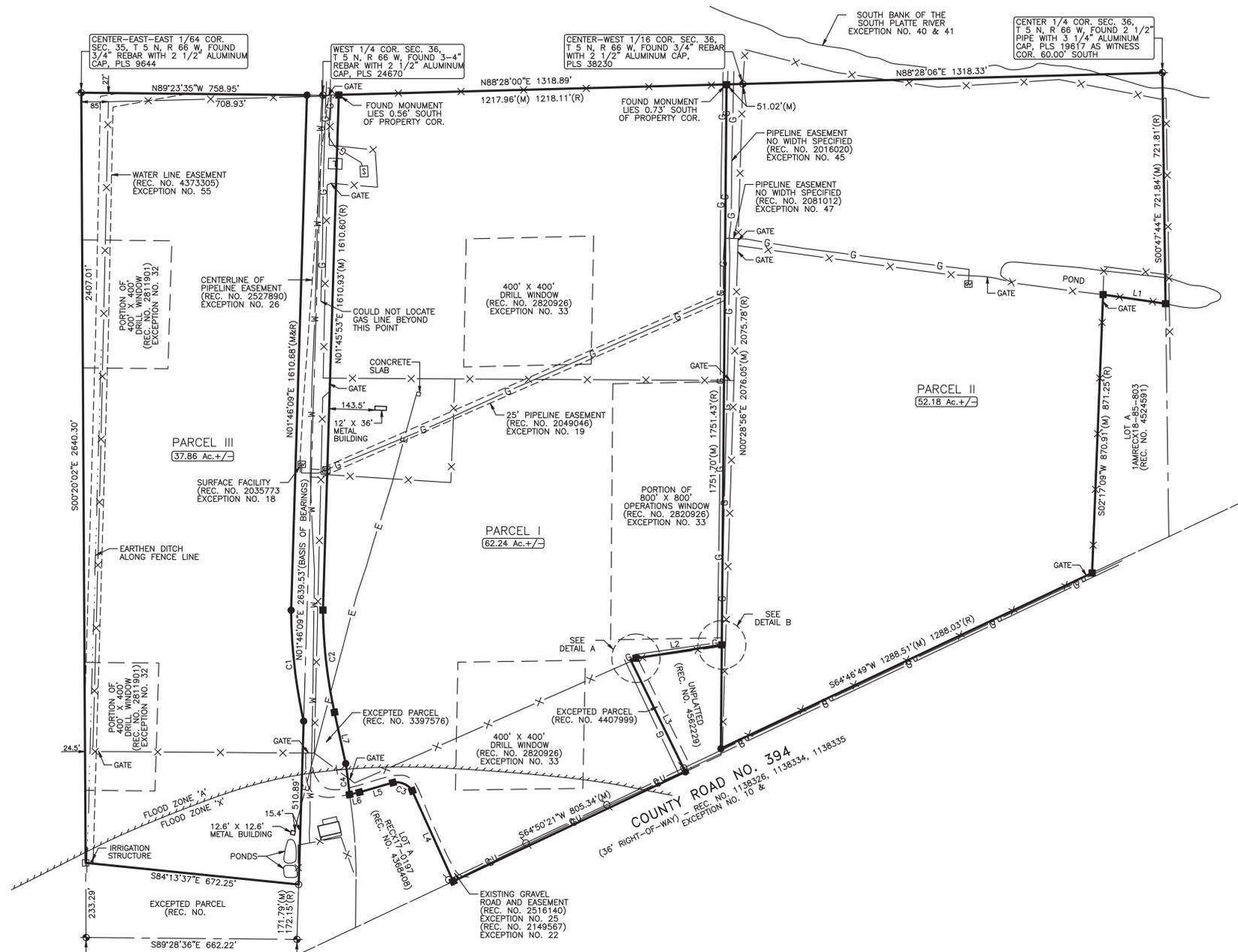
REVISIONS:

JOB NO: 20-262

ALTA/NSPS LAND TITLE SURVEY

Part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 35 and the Southwest 1/4 of Section 36, Township 5 North, Range 66 West of the 6th P.M., County of Weld, State of Colorado

Sheet 2 of 3

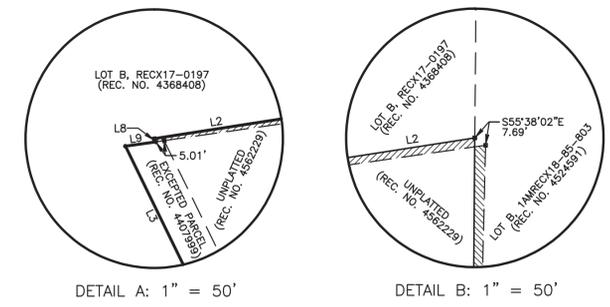
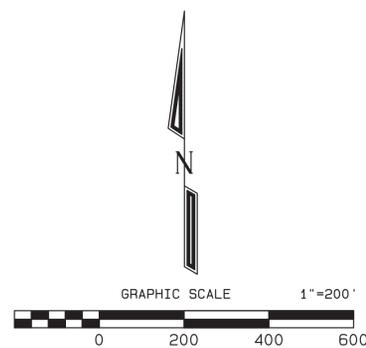


- LEGEND:**
- ◆ = ALIQUOT MONUMENT, AS NOTED.
 - = SET 5/8" X 24" REBAR WITH 2" ALUMINUM CAP, PLS 37971.
 - = FOUND 1/2" REBAR WITH YELLOW PLASTIC CAP, PLS 24307.
 - ⊠ = FOUND 5/8" REBAR WITH 2" ALUMINUM CAP, PLS 9644.
 - = FOUND 1/2" REBAR.
 - = FOUND 6" STEEL POST UP 60".
 - ∩ = OVERHEAD UTILITY POLE.
 - ⊞ = OIL/GAS VALVE STRUCTURE.
 - ⊞ = TANK BATTERY.
 - ⊞ = SEPERATOR.
 - X—X— = FENCE LINE.
 - U—U— = OVERHEAD UTILITY LINE.
 - G—G— = GAS LINE.
 - W—W— = WATER LINE.
 - / — / — = FLOODPLAIN BOUNDARY, AS NOTED.
 - (M) = AS MEASURED BY THIS SURVEY.
 - (R) = MEASUREMENT OF RECORD.
 - ▨ = FOUND MONUMENTED GAP BETWEEN LOT B, RECX17-0197 AND REC. NO. 4562229, AS NOTED.
 - ▨ = FOUND MONUMENTED OVERLAP BETWEEN LOT B, 1AMRECX18-85-803 AND REC. NO. 4562229, AS NOTED.

LINE	BEARING	DISTANCE
L1	N81°44'31"W	197.96'(M) 197.79'(R)
L2	S81°11'33"W	272.90'(M) 273.00'(R)
L3	S26°08'24"E	390.69'(M) 390.69'(R)
L4	N24°23'12"W	311.13'(M) 311.35'(R)
L5	S73°52'52"W	109.42'(M) 109.45'(R)
L6	S77°07'49"W	31.94'(M) 32.05'(R)
L7	N12°23'53"W	164.32'(M) 164.32'(R)
L8	S26°44'39"E	2.08'
L9	S81°52'09"W	18.12'

LINE	RADIUS	ARC	DELTA	CHORD BEARING	CHORD
C1	1650.00'	349.41'	12°07'59"	N06°28'25"W	348.75'
C2	1550.00'	322.09'	11°54'21"	N06°26'43"W	321.51'
C3	59.34'	70.13'	67°42'44"	N67°15'25"W	66.12'
C4	1650.00'	97.51'	03°23'10"	N06°58'13"W	97.50'

NOTE: C3 AND C4 ARE NON-TANGENT CURVES

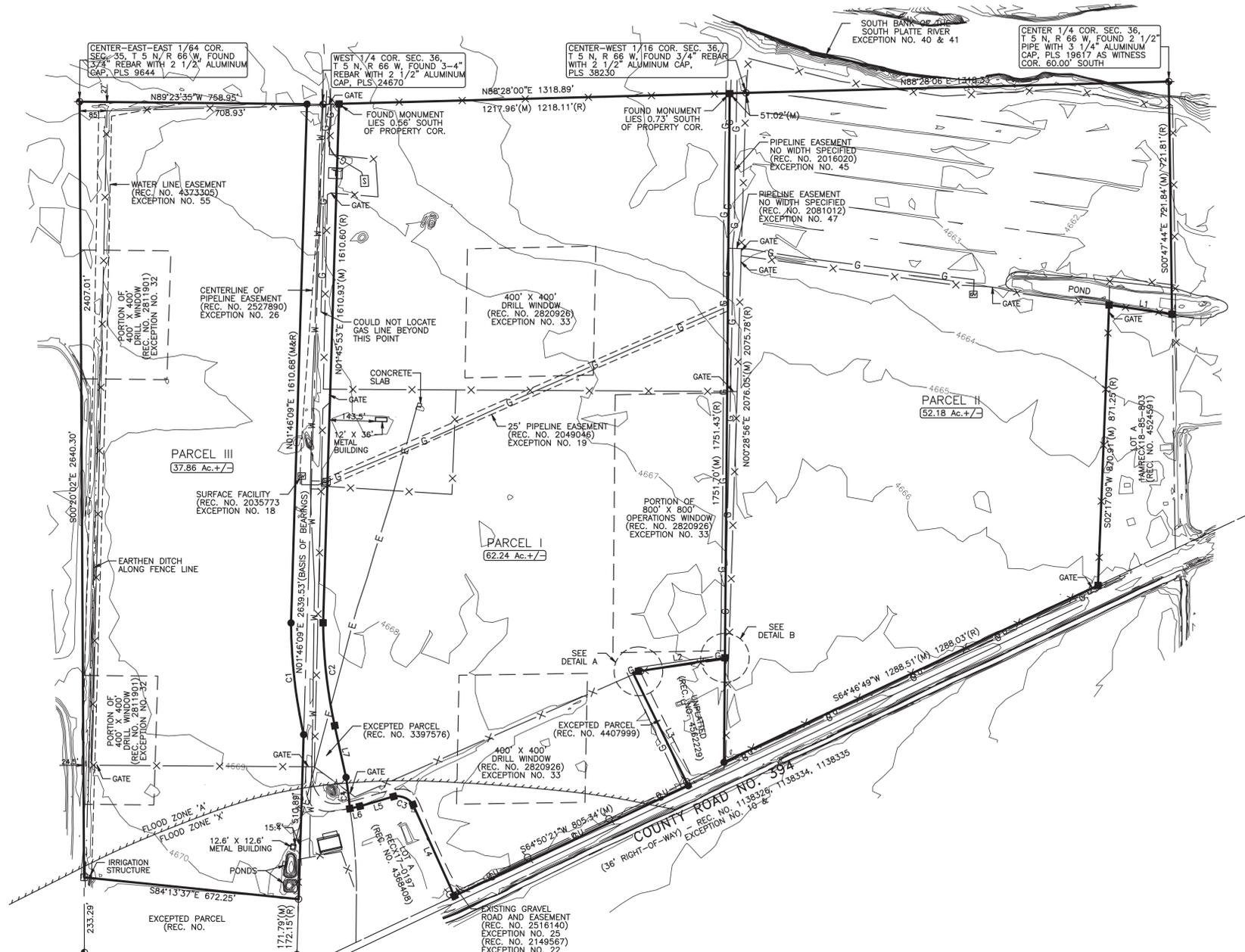


American West Land Surveying Co.
 A Colorado Corporation
 PO Box 129, Brighton, CO 80601 • P:303-659-1532 F:303-655-0575 • amwestlls.com
 SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: JUNE 22, 2020
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Sheet 3 of 3

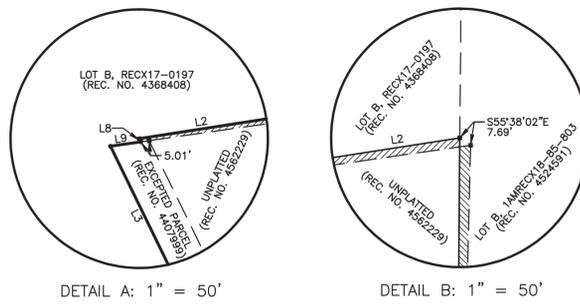
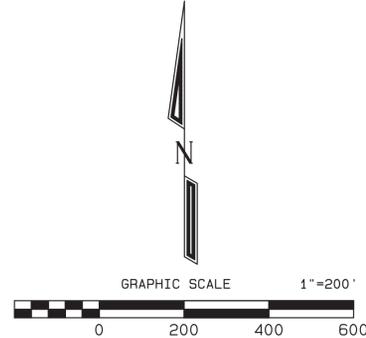


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NOTE: C3 AND C4 ARE NON-TANGENT CURVES



DETAIL A: 1" = 50' DETAIL B: 1" = 50'



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 SCALE 1" = 200' DRAWN BY: CDH CHECKED BY: MJH DATE: JUNE 15, 2020
 REVISIONS:
 JOB NO: 20-262

ASPHALT SPECIALTIES COMPANY, Inc.

Economic Impact of Facility in Weld County, Colorado

March 2022

BUSINESS RESEARCH DIVISION
Leeds School of Business
University of Colorado Boulder
420 UCB
Boulder, CO 80309-0420
[Colorado.edu/business/brd](https://colorado.edu/business/brd)

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PROJECT OVERVIEW

The Business Research Division conducted a study of the economic impact of a new asphalt operation on the City of Evans. The Colorado-based, vertically integrated company extracts aggregate, sand, and gravel; produces asphalt; and provides residential and commercial asphalt paving services. The company has an operation in Firestone, Colorado that is near the end of life, and is seeking a new operation in the City of Evans in Weld County, Colorado. The estimates of economic impact derive from unaudited sales, employment, and wage projections from Asphalt Specialties Company, Inc. This study estimates the total economic impact stemming from company operations, supply chain purchases, and employee consumption.

The purpose of this study is to provide third-party research to Asphalt Specialties Company, Inc. and its stakeholders, including governments, residents, and businesses, about the economic contributions of the operations in Weld County.

While relocating the plan to Evans will increase direct economic activity in Evans, the facility may have many of the same suppliers and employees as the current facility in Firestone. The study does not examine the *net* effects of relocating the plant within Weld County. Likewise, the study does not examine the public revenue (e.g., taxes and fees) nor the public costs (e.g., roads and environment) of the operation.

METHODOLOGY

This study was conducted in cooperation with Asphalt Specialties Company, Inc. The company provided unaudited, proforma data on steady-state operations, including aggregate and asphalt sales, employee counts, employee compensation, proprietor income, and contracting income. According to the company, if the Firestone operation is shut down, Evans would be the source of the company's aggregate and asphalt for contracting activity along the Front Range.

The company estimated \$6 million in annual aggregate and asphalt sales, \$15 million in contracting income, 36 employees working pit and transportation operations, and \$1.4 million in annual employee wages and benefits.

Data were modeled by industry in the 546-sector IMPLAN input-output model. Asphalt Specialties Company, Inc. did not provide a list of suppliers or a typical spending profile for the company—this activity was derived from the model. This model quantified the economic impacts of company operations on Weld County.¹ Input-output (I-O) economic analysis quantifies economic activity derived from elements of production, such as labor and intermediate inputs. It includes estimates of the indirect and induced activity based on industry supply chains and regional trade flows. The direct impact describes the impact from Asphalt Specialties Company's sales, employment, and wages. The indirect impact describes the economic activity derived from the company's purchases of goods and services from other companies (i.e., supply chain), and the induced impact describes the economic activity derived from spending associated with employee earnings—people spend their earnings on goods and services in the community (e.g., mortgage, rent, utilities, entertainment, food, clothing, etc.). The

¹ The model was built using a combined region including Weld and Adams counties to capture industry spending patterns of asphalt economic data existing in Adams County.

relationship between direct industry activity and the indirect/induced activity is distilled in industry multipliers.

Multipliers refer to the interindustry relationships within a study area in terms of input-output (I-O) economic impacts.² Multipliers are useful for analyzing project decisions to understand the incremental impacts that such activities have on the local economy. IMPLAN multipliers are static and thus do not consider large-scale disruptive impacts on the economic fabric without calculating specific infrastructure changes.

Two IMPLAN sectors were used to represent company activity: sector 29 (sand and gravel mining) and sector 155 (Asphalt paving mixture and block manufacturing). These correspond to two North American Industry Classification System industries: NAICS 212321 (Construction Sand and Gravel Mining), 324121 (Asphalt Paving Mixture and Block Manufacturing).³ Downstream asphalt paving operations would be modeled in sector 62 (maintenance and repair construction of highways, streets, bridges, and tunnels), which corresponds to NAICS 237310 (Highway, Street, and Bridge Construction).

DEFINITIONS

Gross Domestic Product (GDP): A measure of economic activity, GDP is the total value added by resident producers of final goods and services.

Gross Output (Output): The total value of production is gross output. Unlike GDP, gross output includes intermediate goods and services.

Value Added: The contribution of an industry or region to total GDP, value added equals gross output, net of intermediate input costs.

Labor Income: Total compensation of employees (wages and benefits) and sole proprietors (profits).
Employment: Full-time and part-time workers.

Direct Impact: Initial economic activity (e.g., sales, expenditures, employment, production, etc.) by a company or industry.

Indirect Impact: The upstream (backward) economic activity impacted by purchases of goods and services from other companies.

Induced Impact: Economic activity derived from workers spending their earnings on goods and services in the economy.

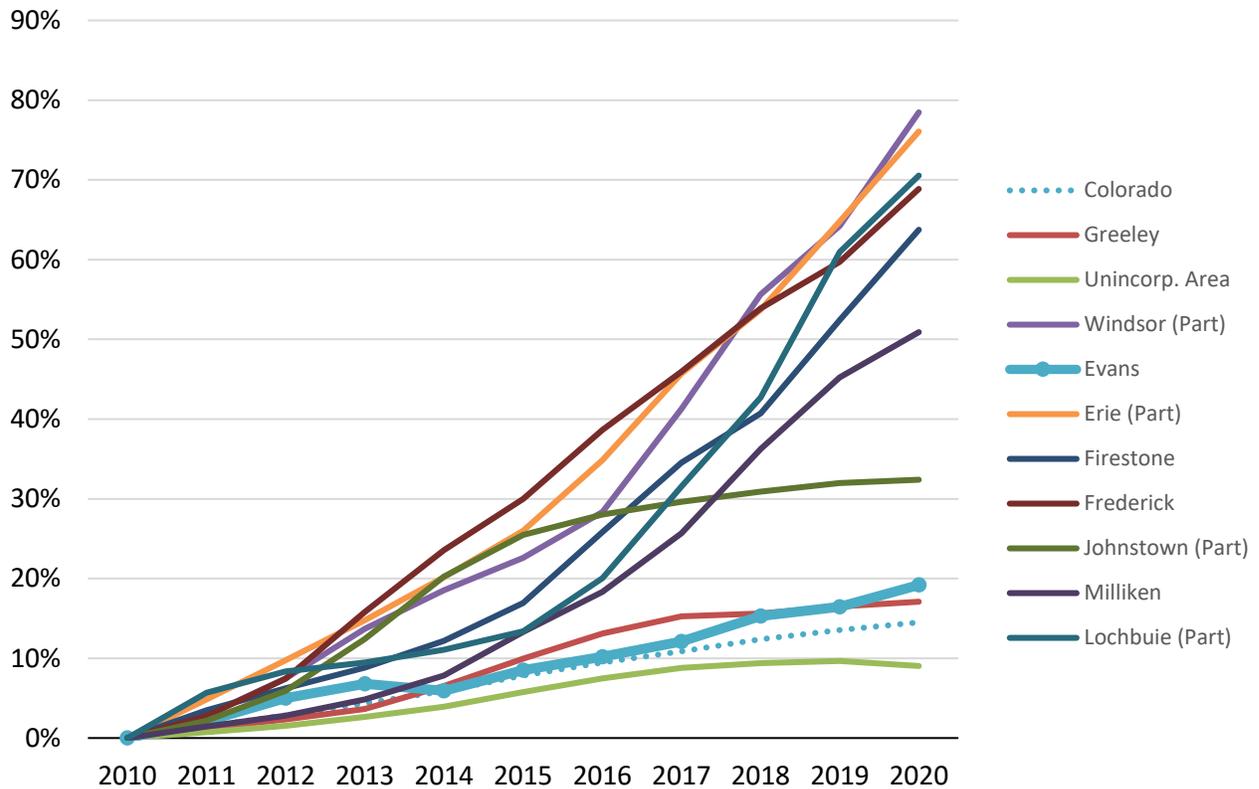
² Bureau of Economic Analysis, Regional Multipliers, <https://www.bea.gov/news/blog/2019-09-03/bea-updates-regional-economic-impact-tool>, retrieved March 1, 2022.

³ U.S. Census Bureau, North American Industry Classification System. <https://www.census.gov/naics/?99967>, retrieved March 1, 2022.

ECONOMIC OVERVIEW

The City of Evans is located along the Front Range in Weld County, Colorado. Weld County’s population was 331,184 in 2020 – the eighth-largest county in the state by population, representing 5.7% of the state total, according to the Colorado State Demography Office. The population in Evans grew 2.4% in 2020 year-over year to total 22,204, ranking it the third-largest municipality in the county behind Greeley and Windsor. The population of Evans grew at a 10-year compound annual growth rate (CAGR) of 1.8% from 2010 to 2020, slightly higher than that of Weld County (1.6%) and the state (1.4%).

FIGURE 1: WELD COUNTY 2010-2020 POPULATION GROWTH BY TOP 10 LARGEST MUNICIPALITIES



Source: Colorado State Demography Office.

Employment in Weld County averaged 107,080 in 2020, ranking it as the 9th-largest county in Colorado by employment, according to the Colorado Department of Labor and Employment. Employment in the county fell 6.4% in 2020 year-over-year compared to a 4.8% decline statewide. For the 12-months ending in September 2021, employment in Weld County averaged 105,995 covered wage and salary jobs. The unemployment rate in Weld County stood at 4.2% in December 2021, on par with the rate of the state. The county’s unemployment rate has fallen significantly from the 10.9% observed in June 2020 due to the pandemic-induced recession but is still elevated from levels pre-pandemic (2-3%).

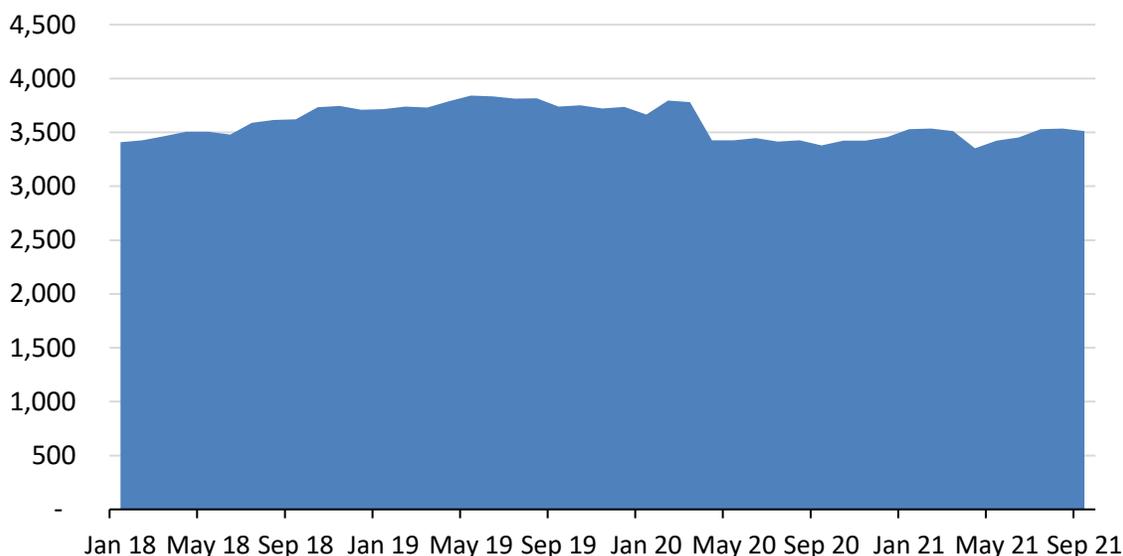
The largest employment industries in Weld County are Government (14%), Manufacturing (12%), Construction (10.7%), Retail Trade (10%), and Health Care & Social Assistance (9%).

FIGURE 2: WELD COUNTY ESTABLISHMENTS AND EMPLOYMENT BY INDUSTRY, Q3 2021

Industry	Establishments	% of Establishments	Average Employment	% of Employment
Agriculture, Forestry, Fishing, Hunting	4,415	4.1%	4,369	4.1%
Mining	4,666	4.4%	4,695	4.4%
Utilities	449	0.4%	452	0.4%
Construction	11,600	10.8%	11,500	10.7%
Manufacturing	12,969	12.1%	12,933	12.0%
Wholesale Trade	4,289	4.0%	4,261	4.0%
Retail Trade	10,850	10.1%	10,786	10.0%
Transportation & Warehousing	3,646	3.4%	3,714	3.4%
Information	537	0.5%	544	0.5%
Finance & Insurance	2,812	2.6%	2,805	2.6%
Real Estate, Rental & Leasing	1,341	1.3%	1,338	1.2%
Professional & Technical Services	3,532	3.3%	3,557	3.3%
Management Of Companies & Enterprises	1,831	1.7%	1,801	1.7%
Administrative & Waste Services	5,963	5.6%	6,002	5.6%
Educational Services	707	0.7%	738	0.7%
Health Care & Social Assistance	9,590	8.9%	9,692	9.0%
Arts, Entertainment & Recreation	1,051	1.0%	1,190	1.1%
Accommodation & Food Services	8,823	8.2%	8,850	8.2%
Other Services	2,841	2.7%	2,814	2.6%
Non-classifiable	10	0.0%	13	0.0%
Government	15,231	14.2%	15,630	14.5%
Total All Industries	107,153	100%	107,684	100%

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Employment in Evans totaled an estimated 3,506 in 2020, representing an estimated 3.3% of Weld County employment, according to data from the Colorado Department of Labor and Employment. The largest industry in Evans is Health Care and Social Assistance (20%), followed by Mining (18%), and Retail Trade (12%). Employment in Evans dipped around 9% in April 2020 due to the pandemic-induced recession and has yet to recover all of the jobs lost. Employment in September 2021 was down an estimated 4.1% from January 2020.

FIGURE 3: CITY OF EVANS, COLORADO EMPLOYMENT, JANUARY 2018 – SEPTEMBER 2021

Source: Colorado Department of Labor and Employment.

Over the four quarters ending Q3 2021, total wages in Weld County summed to \$6 billion. Average annual pay in Weld County in 2020 was \$56,265, 18.5% lower than the statewide average of \$66,649 and ranking 12th out of the 64 counties in Colorado. Average annual wages in the county increased 3.6% in 2020 year-over-year (lower than the 7.8% increase statewide) and have observed a 10-year CAGR of 3.7% from 2010 to 2020 (higher than the 3.4% increase statewide). The Utilities industry paid the highest average annual wages in Weld County with annual wages of \$106,498, followed by Mining (\$104,662), and Professional, Scientific, and Technical Services (\$77,459).

FIGURE 4: WELD COUNTY AVERAGE ANNUAL WAGES BY INDUSTRY, 2020

Industry	Average Annual Wages
Agriculture, forestry, fishing and hunting	\$48,285
Mining	\$104,622
Construction	\$66,251
Manufacturing	\$58,587
Utilities	\$106,498
Wholesale Trade	\$72,661
Retail Trade	\$35,785
Transportation and Warehousing	\$62,425
Information	\$76,570
Finance and Insurance	\$71,085
Real Estate Rental and Leasing	\$55,697
Professional, Scientific, and Technical Services	\$77,459
Administrative Support and Waste Management and Remediation Services	\$43,392
Educational Services	\$29,334
Health Care and Social Assistance	\$51,365
Arts, Entertainment, and Recreation	\$26,653
Accommodation and Food Services	\$20,120
Other Services	\$42,062
ALL	\$56,265

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Real GDP in Weld County declined 11.5% in 2020 year-over-year, compared to the statewide decline of 3%, according to the Bureau of Economic Analysis. The large decline in real GDP was led by a 32.4% decline in Mining, quarrying, and oil and gas extraction. Mining, quarrying, and oil and gas extraction is the county's largest industry representing 39.2% of real GDP, followed by Finance, insurance, real estate, rental, and leasing (10.9%), and Manufacturing (7%).

FIGURE 5: WELD COUNTY REAL GDP BY INDUSTRY, 2020



Source: Bureau of Economic Analysis.

ECONOMIC IMPACT

The economic contribution from Asphalt Specialties Company extraction and asphalt manufacturing projected operations on the Weld County total \$8.8 million in 2022 dollars. Most of the impact derives from direct operations—an estimated \$6 million in sales, \$1.4 million in employee compensation, and 36 full-time and part-time employees.

TABLE 1: ASPHALT SPECIALTIES COMPANY, TOTAL ECONOMIC CONTRIBUTION ON WELD COUNTY

Impact	Employment	Employee Compensation (\$M)	Value Added (\$M)	Output (\$M)
Direct	36	1.4	3.2	6.0
Indirect	5	0.4	0.9	1.9
Induced	6	0.2	0.5	0.8
Total	47	2.0	4.6	8.8

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Colorado Demography Office. Colorado Population Estimates by County, 2010-2020.
<https://demography.dola.colorado.gov/>. Accessed March 2, 2022.

IMPLAN® model, 2019 Data, using inputs provided by the user and IMPLAN Group LLC, IMPLAN System
(data and software), 16905 Northcross Dr., Suite 120, Huntersville, NC 28078
www.IMPLAN.com.



COLORADO

Parks and Wildlife

Department of Natural Resources

Fort Collins Service Center
317 West Prospect Road
Fort Collins, CO 80526-2003
P 970.472.4300 | F 970.472.4458

Item # 6.

January 28, 2022

Eric Scott
Division of Reclamation, Mining and Safety
1313 Sherman St. Room 215
Denver, CO 80203
303.866.3567 x 8140
eric.scott@state.co.us

Re. Stiles Mining Resource, File No. M-2021-067, at or near Section 35, Township 5N, Range 66W, 6th Principle Meridian, in Weld County.

Mr. Scott:

Thank you for the opportunity to comment on Stiles Mining Resource mining and reclamation project. Colorado Parks and Wildlife (CPW) is in receipt of the above referenced review proposal and is familiar with the site.

The mission of CPW is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources. CPW has a statutory responsibility to manage all wildlife species in Colorado; as such we encourage protection for Colorado's wildlife species and habitats through responsible energy development and land use planning.

The protection of High Priority Habitats (HPH), big game winter ranges, and raptor nesting locations are of extreme importance to CPW. CPW recommends that all proposed projects be assessed to avoid, minimize, or mitigate impacts to sensitive wildlife habitats and species. That includes species of concern, big game winter concentration areas, breeding and nesting habitats for sensitive ground-nesting birds, and nests of raptors sensitive to development to prevent the loss of habitat or fragmentation of habitat. One way CPW achieves our mission is by responding to referral comment requests, as is the case for this project.

THE IMPORTANCE OF HIGH PRIORITY HABITATS

Developers and permitting agencies can help avoid, minimize, and mitigate impacts to wildlife from their projects by working with CPW. HPHs are defined as sensitive habitats where CPW has recent maps regarding sensitive wildlife use, plus scientifically-backed best management practice recommendations. HPHs are a subset of CPW's Species Activity Maps that we collect and update for a variety of species and their particular habitats; we provide these maps to the public and regulatory agencies for the environmental assessment and land use commenting of proposed development on a given parcel, and general scientific research.

RECOMMENDATIONS

Construction Timing

- If prairie dogs are present or become present within any of the project boundaries and initial construction occurs from March 15 to October 31, then please complete a Burrowing Owl survey per CPW recommendations.
- If initial construction is slated for the spring and summer, please incorporate active raptor nest buffers and avoidance periods. All migratory birds are protected under the Migratory Bird Treaty Act and removal or disturbance of any migratory bird nest would require consultation with CPW and US Fish and Wildlife Service (USFWS) prior to disturbance.
- Mule deer Severe Winter Range and Mule deer Winter Concentration Areas are both mapped HPHs within the project boundaries. Because of this, CPW recommends construction not occur in winter and spring and further recommends no human activities be authorized from December 1 to April 30 during the construction phase.

Fencing

CPW is concerned for the safety of Mule deer and White-tailed deer in the area for the proposed project. CPW recommends that if fencing (project perimeter or internal) is erected, either during or after the project, it should be the type that would allow the free passage of wildlife. Fencing plans should avoid the use of woven wire type fences that will trap or prevent movement of wildlife. CPW recommends the use of three or four strand smooth-wire fencing with a bottom strand height of 17 inches above ground level and a maximum top strand height of 42 inches above ground level, along with the installation of double stays between posts.

Noxious Weeds and Native Re-seeding

Also of importance to CPW is the revegetation of disturbed soils and the control of noxious weed species through the development of a noxious weed management plan prior to initiating construction activities. The revegetation of disturbed areas and control of invasive weed species are important components of the project and it is critically important that the site be restored back to the native plant community that currently exists on site. CPW prefers that native vegetation be retained on-site during the operational lifespan of the project, both as potential habitat for wildlife and to ensure successful reclamation of the project area, as noxious weeds could spread to adjacent habitats outside the project area.

Wildlife Escape Ramps

During open pit or open trench mining operations, CPW recommends backfilling escape ramps in areas where steep slopes occur. Escape ramps will allow wildlife to safely exit an open pit or trench if they become entrapped.

Retention ponds

Ponds created by reclamation efforts could potentially have significant value to wildlife. To maximize this benefit, CPW recommends that ponds be designed to include irregular shorelines and one or more islands to provide cover, shelter, and nesting areas for migratory birds. Islands should be at least 15' x 25' in size for every two surface acres of water in the pond. Shoreline and island slopes should be graded to a ratio of 4 horizontal feet to every 1 vertical foot of distance, with some areas having slopes no steeper than 8 horizontal feet to every 1 vertical foot of distance.

Such shallow areas will allow for the establishment of a variety of aquatic vegetation and invertebrate prey for waterfowl and shorebirds. Shorelines should be re-vegetated with native aquatic vegetation.

In closing, CPW requests from DRMS, Weld County Planning Department and Asphalt Specialties Co., Inc., that CPW continue to be involved with this project as it moves through the permitting process. We appreciate being given the opportunity to comment. Please feel free to contact District Wildlife Manager Mike Grooms at 970.692.4028 or via email at michael.grooms@state.co.us should you have any questions or require additional information.

Sincerely,



Jason Surface
Area Wildlife Manager
Area 4- Fort Collins

Cc: Michael Grooms; Mark Leslie

CITY COUNCIL AGENDA REPORT

DATE: April 4, 2022

SUBJECT: Public Hearing: Consideration of Ordinance Number 760-22 Regarding Designation of an Area or Activity of State Interest

Public Hearing: Consideration of Ordinance Number 761-22 Developing Regulations for Such Area or Activity of State Interest

Consideration of Resolution Number 11-2022 Entering into an Intergovernmental Agreement with Weld County for the Use of Certain Weld County Staff

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Anne Best Johnson, Community Development Director
Scott Krob, City Attorney
Drew Lyman, Assistant City Attorney

ITEM DESCRIPTION:

At the work session on December 21, 2021, City Council discussed consideration of Areas and Activities of State Interest and how designation of such may impact the City of Evans.

The State of Colorado developed the Areas and Activities of State Interest Act (AASIA) through House Bill 74-1041 in 1974. This Act delegates power to local governments such as counties and cities to regulate local land use. Delegated powers are commonly referred to as “1041 Powers” and likewise, the resulting regulations are commonly known as “1041 Regulations.” Counties such as Larimer, Morgan, Weld and Washington have adopted 1041 Powers and Regulations. Communities such as Frederick, Erie, Dacono, Greeley, Kersey, Nunn and Windsor have also adopted 1041 Powers and Regulations.

The Planning Commission heard this Work Session topic on November 23, 2021 and determined 1041 Powers and Regulations for Oil and Gas are appropriate for the City of Evans and sent a recommendation to City Council in favor of designation of areas and activities of state interest and to request staff to develop 1041 regulations.

At its work session on December 21, 2021, City Council directed staff to draft 1041 Regulations for oil and gas activities in the City of Evans. Staff from the City of Evans and Weld County have been diligently collaborating on the language to include in the Municipal Code and on an Intergovernmental Agreement. Attached to this agenda report are the following Ordinances and a Resolution for your consideration:

- Ordinance Number 760-22: An Ordinance designating an area and activity of state interest in the City of Evans, Colorado.
-

- Ordinance Number 761-22: An Ordinance amending Title 18 of the Municipal Code, the Land Use Code.
- Resolution Number 11-2022: A Resolution to consider entering into an Intergovernmental Agreement with Weld County for the use of certain staff within the Weld County Oil and Gas Energy Department to assist with 1041 Oil and Gas Location Assessment permitting and enforcement for the City of Evans.

Weld County has a staff team within the Oil and Gas Energy Department that is specially trained to process 1041 applications for oil and gas development. Training includes annual operator-specific safety training, CPR, First Aid, and industry-specific training. The staff of Evans' Community Development Department does not have capacity for this additional training at this time. The Intergovernmental Agreement presented for consideration by Council will enable consistent processing of applications for an Evans – Oil and Gas Location Assessment permit accustomed to by operators in Weld County.

The language proposed for consideration through Ordinance Numbers 760-22 and 761-22 follow the same language contained in the Weld County Code. This language has been modified to reflect this newly crafted hybrid process in collaboration with Weld County.

The City of Evans has reached out to oil and gas operators in the Evans area including PDC Energy, Noble Energy and Extraction on both February 11 and March 24, 2022. To date, no comments have been received.

FINANCIAL SUMMARY:

There is no financial implication to the City to adopt 1041 Powers and Regulations other than staff time to draft and review Code language. As reflected in the proposed Code amendment and Intergovernmental Agreement, applicants will be required to pay for fees assessed by Weld County to process 1041 Evans – Oil and Gas Location Assessment permits.

RECOMMENDATION:

Staff is recommending that the City of Evans designate the municipal boundaries of the City of Evans, as they may expand over time to be an area of state interest for oil and gas activities. Staff is recommending that the City of Evans adopt 1041 Regulations into the Land Use Code. Staff is recommending that the City of Evans enter into an Intergovernmental Agreement to allow Weld County staff to process Evans Oil and Gas Location Assessment permits.

SUGGESTED MOTIONS:

There are three matters covered in this one Agenda Report. Each matter requires a separate motion by Council. Each suggested motion option can be found below.

Ordinance Number 760-22

“I move to approve Ordinance Number 760-22 as presented to designate the City of Evans an area of state interest for the activity of oil and gas activities.”

“I move to deny Ordinance Number 760-22 as presented to designate the City of Evans an area of state interest for the activity of oil and gas activities for the reasons stated.”

Ordinance Number 761-22

“I move to approve Ordinance Number 761-22 as presented to adopt 1041 Regulations into Title 18 of the Municipal Code, the Land Use Code.”

“I move to deny Ordinance Number 761-22 as presented to adopt 1041 Regulations into Title 18 of the Municipal Code, the Land Use Code for the reasons stated.”

Resolution Number 11-2022

“I move to approve Resolution Number 11-2022 as presented and authorize the Mayor to execute the Intergovernmental Agreement with Weld County.”

“I move to deny Resolution Number 11-2022 as presented for the reasons stated.”

ATTACHMENTS:

- Ordinance Number 760-22
- Ordinance Number 761-22 and Attachment A
- Resolution Number 11-2022 and Attachment A
- Evidence of publication in the *Greeley Tribune*

CITY OF EVANS, COLORADO

ORDINANCE NO. 760-22

**AN ORDINANCE DESIGNATING AN AREA AND ACTIVITY OF STATE INTEREST
IN THE CITY OF EVANS, COLORADO**

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, regulating areas and activities of state interest are authorized by and through the Colorado Areas and Activities of State Interest Act, Colorado Revised Statutes Section 24-65.1-101, et seq; the Colorado Local Government Land Use Enabling Act Colorado Revised Statutes Section 29-20-101, et seq., including, without limitation Colorado Revised Statutes Section 29-20-104; and

WHEREAS, the purpose and intent of the Section 1041 Regulations is to facilitate identification, designation and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Colorado Revised Statutes, Section 24-65.1-101, et seq.; and

WHEREAS, the 1041 regulations are necessary because of the intensity of current and foreseeable development pressures on and within the City and to promote the health, safety, and welfare of the citizens of the City of Evans, and to protect the environment and wildlife of the City of Evans; and

WHEREAS, the 1041 regulations shall apply to all proceedings concerning identification and designation of any developments in an area of state interest or any activity of state interest which has been or may hereafter be designated by City Council, and the control of development in any such area or activity within the City, unless specifically excepted pursuant to the provisions of the regulations to be developed by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. The municipal boundary for the City of Evans, as it may change over time, is hereby determined to be an area of state interest for the express activities associated with the activity of state interest for oil and gas exploration and production.

Section 2. The Evans Land Use Code found in Title 18 of the Municipal Code shall be amended by staff to include regulations for areas and activities of state interest.

Section 3. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and

City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

Section 4. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL, 2022.

ATTEST: CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 19th DAY OF APRIL, 2022.

ATTEST: CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 761-22

AN ORDINANCE AMENDING TITLE 18 OF THE CITY OF EVANS MUNICIPAL CODE TO ADOPT 1041 REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST AND TO AMEND SECTIONS 18.06.060, 18.03.010, AND 18.10.010, AND DELETE SECTION 18.06.080

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, City Council has designated Areas and Activities of State Interest in the City of Evans; and

WHEREAS, City Council has directed staff to prepare language for inclusion in the Land Use Code found in Title 18 of the Municipal Code; and

WHEREAS, the existing Land Use Code Sections 18.06.060, 18.03.010 and 18.10.010 require amendments to accommodate Code language for Areas and Activities of State Interest; and

WHEREAS, the existing Land Use Code Section 18.10.080 will be deleted by inclusion of the new Code language for Areas and Activities of State Interest regarding oil and gas development within the boundaries of the City of Evans, as the boundaries may change over time; and

WHEREAS, a consistent and transparent land use process for review and permitting of Areas and Activities of State Interest is beneficial in encouraging development and providing certainty; and

WHEREAS, City Council has determined that in order to make such processes certain, consistent and streamlined, the amendments to the Evans Municipal Code as set forth in Exhibit A attached hereto, are hereby adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. The Evans Municipal Code Sections 18.06.060, 18.03.010 and 18.10.010 are hereby amended as presented in Exhibit A attached hereto.

Section 2. The Evans Municipal Code Section 18.10.080 is hereby deleted as presented in Exhibit A attached hereto.

Section 3. The Evans Municipal Code is hereby amended by including Chapter 18.12 as presented in Exhibit A attached hereto.

Section 4. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

Section 5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 19th DAY OF APRIL, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

Title 18 – Land Use Code

Chapter 18.12 Areas and Activities of State Interest

18.12.010 Title and citation.

The regulations found in this Chapter may be referred to generally as the 1041 Regulations, unless the specific regulations adopted for the designated area or activity of state interest has a designated name found in this Chapter. All citations hereto shall be with reference to the Evans Municipal Code, as set forth herein.

18.12.020 Purpose and findings.

- A. Purpose and intent. The purpose and intent of these Section 1041 Regulations is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in C.R.S. § 24-65.1-101, et seq.
- B. Findings. With respect to these 1041 Regulations, the City Council finds as follows:
 - 1. The 1041 Regulations are necessary because of the intensity of current and foreseeable development pressures on and within the City and to promote the health, safety and welfare of the citizens, and to protect the environment and wildlife of the City of Evans;
 - 2. The 1041 Regulations apply to the entire incorporated territory of the City;
 - 3. The 1041 Regulations enable development to occur; and
 - 4. The 1041 Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the City Council.

18.12.030 Legal authority.

The 1041 Regulations are authorized by and through the Colorado Areas and Activities of State Interest Act ("AASIS"), C.R.S. §§ 24-65.1-101, et seq.; the Colorado Local Government Land Use Enabling Act, C.R.S. §§ 29-20-101, et seq., including, without limitation, C.R.S. § 29-20-104; the City Community Development and Building Code statutes set forth in C.R.S. Title 30, Article 28; and the powers and authorities conferred upon home rule cities set forth in C.R.S. Title 30, Article 35, including authority to adopt the City Building Code (February 7, 1955), Zoning Code (August 3, 1964), Subdivision Regulations (February 3, 1987) and the City of Evans Home Rule Charter to ensure self-determination and to promote the health, safety, security and general welfare of the people of the City of Evans.

18.12.040 Applicability.

The 1041 Regulations shall apply to all proceedings concerning identification and designation of any developments in any area of state interest or any activity of state interest which has been or may hereafter be designated by the Evans City Council, and the control of development in any such area or activity within the City, unless specifically excepted pursuant to the provisions of the regulations in this Chapter.

18.12.050 Exemptions.

The portions of the 1041 Regulations authorized exclusively under Section 24-65.1-101, et seq., C.R.S., shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions, as of the effective date of the Ordinance adopting 1041 Regulations: (a) the specific development or activity was covered by a current building permit issued by the City; (b) the specific development or activity had been

approved by the electorate of the City; or (c) the specific development or activity is to be on land: (i) which has been conditionally or finally approved by the City for planned unit development or for a use substantially the same as planned unit development; (ii) which has been zoned by the City for the use contemplated by such development or activity; or (iii) with respect to which a development plan has been conditionally or finally approved by the City.

18.12.060 Relationship of 1041 Regulations to other City, County, state and federal requirements.

- A. More restrictive City standards or requirements control. Whenever the 1041 Regulations are found to be inconsistent with any other applicable resolution, ordinance, code, regulation or other enactment of the City, the enactment imposing the more restrictive standards or requirements shall control.
- B. Statutory criteria in C.R.S. § 24-65.1-202 and § 24-65.1-204, control if the 1041 Regulations are less stringent. In the event the 1041 Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in C.R.S. § 24-65.1-202 and § 24-65.1-204, the statutory criteria shall control.
- C. The 1041 Regulations control if statutory criteria is found to be less stringent in C.R.S. § 24-65.1-202 and § 24-65.1-204. In the event the 1041 Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in C.R.S. § 24-65.1-202 and § 24-65.1-204, these 1041 Regulations shall control pursuant to the authority of C.R.S. § 24-65.1-402(3).
- D. The 1041 Regulations set forth in this Chapter control in cases of overlapping requirements of this Code. Where the 1041 Regulations set forth in this Chapter overlap with other applicable regulations in this Code, then the 1041 Regulations set forth in this Chapter control.
- E. The 1041 Regulations are in addition to, and not in lieu of, other regulations of the City. The 1041 Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the City, including, without limitation, the annexation, zoning, subdivision, replats, planned unit development, land use permits, intergovernmental agreements, individual sewage disposal system, access permitting, grading permits, building permits, and Master Plan portions of this Code.

18.12.070 Duties of City Council.

Unless otherwise specifically provided for, it shall be the duty of the City Council to perform all of the functions set forth in this Chapter, and those specified in subsequent Sections of this Chapter. The City Council shall also be generally empowered to hear appeals from any person aggrieved by any decision of the Community Development Director made in the course of administering these 1041 Regulations. Any such appeal shall follow the appeals procedure set forth in Title 18 of this Code.

18.12.080 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is for any reason held or decided to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions. The City Council hereby declares that it would have passed the regulations codified herein and each and every section, subsection, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases might be declared to be unconstitutional or invalid.

18.12.090 Definitions.

The words and terms used in these 1041 Regulations for administration of areas and activities of state interest shall have the meanings set forth below, unless the context requires otherwise:

Designation: Only that legal procedure specified by C.R.S. § 24-65.1-401, et seq., and specified in this Chapter as carried out by the Evans City Council.

Development: Any construction or activity which changes the basic character or the use of improved or unimproved real property, as determined in accordance with the provisions of Title 18 of this Code. These activities include but are not limited to grading, paving, mining, excavating, construction; moving vehicles, equipment or structures on site; making a substantial improvement to an existing structure, or the addition of a new structure, or a change in use of a building or the property, for example. Development may necessitate a land use permit and / or other permits to be issued by the City of Evans. Development in Evans requires compliance with Development Standards of this Title.

18.12.200 City Council to make designations.

Designations and amendments of designations may be initiated in two (2) ways:

- A. The City Council may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- B. The Planning Commission may, on its own motion or upon request by the City Council, recommend the designation of matters of state interest. The City Council shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest pursuant to statutory procedures.

18.12.210. Public hearing required.

- A. The City Council shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Such hearing shall be scheduled and notice of such hearing shall be given as set forth below.
- B. The City Council, in its discretion, may request that the Planning Commission hold a hearing and provide a recommendation to the Council on the proposed designation prior to the Council's hearing. Notice of any hearing before the Planning Commission shall be published according to this Title of the Municipal Code. The Planning Commission shall preserve a record of its proceedings and shall make a written report of its recommendations, if any, to the Council, which report shall be advisory only.

18.12.220. Notice of public hearing, mailing list, publication.

- A. The City Council shall prepare a notice of the designation hearing which shall include:
 1. The time and place of the hearing.
 2. The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined.
 3. The telephone number where inquiries may be answered.
 4. A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included.
- B. The City Council shall maintain a mailing list of the names of those persons requesting of the City Clerk that their names and addresses be placed on the list and paying to the Clerk an annual fee of twenty dollars (\$20.00) to cover the costs of production, handling and mailing of notices of all such hearings, pursuant to Sections 24-65.1-404(2)(b) and 24-65.1-501(2)(c), C.R.S. In order to have a name and address retained on said mailing list, such persons shall resubmit their names and addresses and pay said annual fee before January 31 of each year. Interested persons are advised that notices of hearings before the Council are posted on the City website, www.evanscolorado.gov.

- C. At least thirty (30) days but no more than sixty (60) days before the public hearing, the City Council shall publish the notice one (1) time in the newspaper of general circulation in the City designated by the Council as the City's legal newspaper and shall mail the notice by first class mail to each of the following:
1. State and federal agencies, as deemed appropriate in the discretion of the City Council.
 2. Persons on the mailing list (subsequent to the initial adoption of guidelines and regulations).

18.12.230 Matters to be considered at designation hearing.

At the public hearings on designation, the Planning Commission, to the extent applicable, and the City Council shall consider such evidence as they deem appropriate, including, but not limited to, testimony and documents addressing the following considerations:

- A. The intensity of current and foreseeable development pressures.
- B. The matters and considerations set forth in any applicable guidelines.
- C. The boundaries of any area proposed for designation.
- D. The reasons why the particular area or activity is of state interest, the adverse impacts that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantage of development of such area or conduct of such activity in a coordinated manner.
- E. The extent to which other governmental entities regulate the area or activity proposed to be designated.
- F. The applicable criteria for administration of the proposed area or activity as set forth in these regulations and Section 24-65.1-201, et seq., C.R.S.
- G. The legislative declarations stated in Sections 24-65-102, 24-65.1-101 and 29-20-102, C.R.S.
- H. The City's Master Plan, intergovernmental agreements, or any municipal master or comprehensive plan adopted as part of, pertaining to, or affected by the area or activity under consideration.

18.12.240 Conduct of designation hearing.

- A. At the public hearing on designation, the Planning Commission, to the extent applicable, and the City Council shall receive into the public record:
 1. Testimony and evidence from any and all persons or organizations desiring to appear and be heard, including City staff.
 2. Any documents that may be offered.
 3. The recommendations of the Planning Commission, if any.
- B. The Council may impose reasonable time limitations on testimony, and may invite persons representing the same point of view to consolidate their presentations. The Colorado Rules of Civil Procedure will not govern the conduct of the hearing, which is legislative in nature and shall be in ordinance form as an addition to this Title of the Evans Municipal Code.
- C. The Council may continue the hearing from time to time for a period not to exceed sixty (60) days. If the hearing is continued, no additional notice of the hearing needs to be given other than oral announcement at the time and place of the continuance of the next scheduled hearing time and place.
- D. No additional public input, either oral or written, shall be accepted for the record by the City Council after the hearing is closed, except as specifically permitted by the Council.

18.12.250 Record of designation proceeding.

- A. The City Council shall collect and preserve the following record of the public hearing:
1. A copy of the notice of the hearing.
 2. The certificates of publication of the notice of the hearing and a listing of all persons to whom the notice was mailed.
 3. The names and addresses of persons who presented written or oral statements or offered documentary evidence.
 4. Any written statements or documents presented in support of or in opposition to the proposed designation of the matter of state interest.
 5. Any recording or transcript, if any, of the hearing.
 6. The order of designation of the area or activity of state interest.
 7. A map or maps depicting each area of state interest designated.
- B. Any person may, at his or her own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the City Council and shall become part of the record.

18.12.260 Adoption of designation and regulations.

- A. At the conclusion of the hearing, or within thirty (30) days thereafter, the City Council may adopt, adopt with modification or reject the proposed designation which was the subject of the public hearing. If designation and regulation under Section 24-65.1-101, et seq., C.R.S., is rejected, the City Council may regulate the matter under any other available land use control authority or it may reject the regulation of the matter entirely.
- B. Such action adopting the designation of an area or activity of state interest shall be taken by ordinance.
- C. In the event the City Council finally determines that any matter is a matter of state interest, it shall be the Council's duty to adopt regulations for the administration thereof by ordinance.
- D. Each designation order adopted by the City Council shall:
1. Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated.
 2. State reasons why the designation is appropriate in light of the factors specified above to be considered at the public hearings.
 3. Specify the regulations applicable to the designated matter of state interest.
- E. Adoption of regulations adopted after designation of a matter of State interest shall be enacted by Code amendment through adoption of a Code ordinance change.

18.12.270 Recording of notice of designation.

A notice of the designation shall be certified by the City Council to the Weld County Clerk and Recorder and shall be filed in the same manner as any document affecting real property.

18.12.280 Effect of designation - moratorium until final determination.

After a matter of state interest is designated pursuant hereto, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by C.R.S. § 24-65.1-404(4).

18.12.290 Combined designation and permit hearing.

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously identified, designated or for which regulations have not been adopted or for which amendments are pending, the City Council alone may hold one hearing for determination of identification, designation and regulations as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall have the authority to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

18.12.300. Purpose, intent, and authority for Oil and Gas Exploration and Production in the City of Evans (Designated as Mineral Resource Area of State Interest).

On April 4, 2022 pursuant to the provisions of this Chapter, the Evans City Council designated the entire incorporated area of Evans, Colorado, and all future expansion of the City, as a mineral resource (oil and gas) area of state interest [the "Evans Mineral Resource (Oil and Gas) Area"], through the authority delegated to Local Governments in Section 24-65.1-202, C.R.S. Such designation is contained in this Section below. The regulations (referred to herein as "1041 Evans Oil and Gas Exploration and Production Area Regulations") set forth in this Chapter are also made pursuant to the authority granted to the City of Evans in the Colorado Areas and Activities of State Interest Act ("AASIA"), Sections 24-65.1-101, et seq., C.R.S.; the Colorado Local Government Land Use Enabling Act, Sections 29-20-101, et seq., C.R.S., including, without limitation, Section 29-20-104, C.R.S.; the City Community Development and Building Code statutes set forth in Title 30, Article 28, C.R.S.; the powers and authorities conferred upon home rule municipalities set forth in Title 30, Article 35, C.R.S., including authority to adopt the City of Evans Home Rule Charter to ensure self-determination and to promote the health, safety, security and general welfare of the people of the City of Evans; and all of the authorities granted to Local Governments in Title 34, Article 60, C.R.S. and in particular all of the amendments thereto included in S.B. 19-181. The purpose and intent of the 1041 Evans Oil and Gas Exploration and Production Area Regulations (E-OGLA) set forth in this Section are to:

- A. Encourage planned and orderly oil and gas development in the City;
- B. Provide for the needs of agriculture, industry, commerce, residential communities and recreation in future growth in the City;
- C. Encourage uses of land and other natural resources which are in accordance with their original character and adaptability in the City;
- D. Conserve soil, water and agricultural resources; to protect vested water and property rights; and to encourage exploration and production of oil and gas within the City;
- E. Protect air quality in the City;
- F. Protect the environment and wildlife in the City;
- G. Promote the efficient and economic use of public resources in the City;
- H. Protect and administer the Evans Mineral Resource (Oil and Gas) Area in such a manner as to permit the exploration and production of oil and gas through efficient location siting to eliminate or mitigate material adverse impacts and thereby minimize waste, unless such exploration and production would cause significant danger to public health, safety, welfare, environment and wildlife in the City;
- I. Balance the protection, mitigation of damage to and enhancement of environmental resources with the exploration and production of oil and gas within the Evans Mineral Resource (Oil and Gas) Area in the City; and
- J. Regulate the exploration and production of oil and gas within the Evans Mineral Resource (Oil and Gas) Area to balance the rights associated with property ownership of mineral owners with the protection of the environment and wildlife in the City and the health, safety and welfare of the citizens of the City.

18.12.310. Definitions.

In addition to the terms defined earlier in this Chapter, the following terms specific to the designation of site selection and construction of Oil and Gas Locations and Oil and Gas Facilities shall be construed to have the meanings set forth as follows:

1041 WOGLA Hearing Officer: means the Weld County Oil and Gas Energy Department (OGED) Hearing Officer and may also be referred to herein as the "Hearing Officer."

1041 E-OGLA Permit: means a 1041 Evans Oil and Gas Location Assessment permit issued pursuant to this Chapter.

1041 E-OGLA Zone: means a boundary measuring two thousand (2,000) feet from the Oil and Gas Location.

Applicant: means the person or entity who applies for a 1041 E-OGLA Permit. The Applicant may be referred to herein as the "1041 E-OGLA Permittee" or "Operator."

Application: means the 1041 E-OGLA Permit application filed by the Applicant pursuant to this Chapter and may also be referred to herein as the "1041 E-OGLA Permit Application."

Application for Intervention: means an application supplied by OGED for the purpose of applying to intervene in a 1041 E-OGLA Hearing pursuant to this Chapter.

AQCC: means the Colorado Air Quality Control Commission.

Authority Having Jurisdiction: means any other entity which may have jurisdiction over a certain area or may own or operate certain features affected by the Application. Certain examples may include the State of Colorado, Weld County, municipalities, metro districts, or ditch companies. Authority Having Jurisdiction may also be referred to herein as "AHJ."

Barrel: means 42 (U.S.) gallons at 60°F at atmospheric pressure.

Best Management Practices (BMPs): means practices that are designed to prevent or reduce impacts caused by Oil and Gas Operations to air, water, soil, or biological resources, and to Minimize Adverse Impacts to public health, safety and welfare, including the environment and Wildlife Resources.

Board of County Commissioners: may also be referred to herein as "BOCC" or "Board".

Building Unit: means a Residential Building Unit, as defined in this Title, and any building that is used for business or commercial purposes that is normally occupied during working hours.

CDPHE: means the Colorado Department of Public Health and Environment.

Chemical(s): means any element, Chemical compound, or mixture of elements or compounds that has its own specific name or identity such as a Chemical abstract service number, whether or not such Chemical is subject to the requirements of 29 C.F.R. Section 1910.1200(g)(2) (2011).

Child Care Center: means a Child Care Center as defined in Section 26-6-102(5), C.R.S., that is in operation at the time of the 1041 E-OGLA Permit notice pursuant to this Chapter. A Child Care Center will include any associated outdoor play areas adjacent to or directly accessible from the center and is fenced or has natural barriers, such as hedges or stationary walls, at least four (4) feet high demarcating its boundary.

City Council: means the City of Evans City Council, may also be referred to herein as "Council" or "City Council".

Classified Water Supply Segment: means perennial or intermittent streams, which are surface waters classified as being suitable or intended to become suitable for potable water supplies by the Colorado Water Quality Control Commission, pursuant to the Basic Standards and Methodologies for Surface Water Regulations (5 C.C.R. 1002-31).

Closed Loop System: means a mechanical system that separates liquids and solids during drilling operations to eliminate the need for reserve pits.

COGCC: means the Colorado Oil and Gas Conservation Commission.

Completion: means operations conducted on a Well(s), subsequent to drilling, that are necessary to prepare or re-stimulate the Well(s) for production. Completion operations include, but are not limited to, fracture preparation, Hydraulic Fracturing, drill-out and Flowback.

Comprehensive Development Plan: means a plan covering future Oil and Gas Operations in a defined geographic area within a geologic basin. Comprehensive Development Plans may also be referred to herein as "CDP."

Construction Phase: means all those activities related to the site construction, drilling and well completion that occur prior to interim reclamation being performed in accordance with this Chapter. Construction Phase does not include activities such as surveying, staking, etc.

Container: means any portable device in which a hazardous material is stored, transported, treated, disposed of, or otherwise handled. Examples include, but are not limited to, drums, barrels, totes, carboys, and bottles.

Community Development Director: means the Community Development Director for the City of Evans, or their designee.

CPW: means Colorado Parks and Wildlife.

Crop Land: means lands which are cultivated, mechanically or manually harvested, or irrigated for vegetative agricultural production, excluding range land.

Designated Outside Activity Area ("DOAA") means:

1. An outdoor venue or recreation area, such as a playground, permanent sports field, amphitheater, or other similar place of public assembly owned or operated by a Local Government, which the Local Government requests to have established as a DOAA; or
2. An outdoor venue or recreation area, such as a playground, permanent sports field, amphitheater, or other similar place of public assembly where ingress to, or egress from the venue could be impeded in the event of an emergency condition at an Oil and Gas Location less than three hundred and fifty (350) feet from the venue due to the configuration of the venue and the number of persons known or expected to simultaneously occupy the venue on a regular basis.

Development Area: means the subsurface area from which Operator intends to extract oil, gas and other resources.

Drilling Fluid: means the fluid mixture of water, mud, oil, and chemicals used to lubricate the drill bit during drilling operations.

Drilling Pits: means those Pits used during drilling operations and initial Completion of a Well, and include:

1. Ancillary Pits used to contain fluids during drilling operations and initial Completion procedures, such as circulation Pits and water storage Pits.
2. Completion Pits used to contain fluids and solids produced during initial Completion procedures, and not originally constructed for use in drilling operations.
3. Flowback Pits used to contain fluids and solids produced during initial Completion procedures.
4. Reserve Pits used to store drilling fluids for use in drilling operations or to contain E&P Waste generated during drilling operations and initial Completion procedures.

Enhanced Recovery: means a technique of recovering additional oil and gas from a mineralized zone by injecting fluids in an effort to force more of the hydrocarbons to a Well.

EPA: means the Environmental Protection Agency.

Emergency Pit: means a man-made depression in the ground that is used to contain liquids during an initial phase of emergency response operations related to a Spill/Release or process upset conditions.

Exploration and Production Waste ("E&P Waste"): means those wastes associated with operations to locate or remove oil or gas from the ground or to remove impurities from such substances which are uniquely associated with and intrinsic to oil and gas exploration, development, or production operations that are exempt from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 USC Sections 6921, et seq.

For natural gas, primary field operations include those production-related activities at or near the wellhead and at the gas plant (regardless of whether or not the gas plant is at or near the wellhead), but prior to transport of the natural gas from the gas plant to market.

Field: means the general area which is overlaid or appears to be overlaid by at least one (1) pool; and "Field" shall include the underground reservoir or reservoirs containing oil or gas or both. The words "Field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "Field," unlike "pool," may relate to two or more reservoirs.

Financial Assurance: means a surety bond, cash collateral, certificate of deposit, letter of credit, sinking fund, escrow account, lien on property, security interest, guarantee, or other instrument or method in favor of and acceptable to the City of Evans Community Development Director and the City Attorney. The term encompasses general liability insurance.

Floodplain: means any land area susceptible to being inundated as a result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir. The FEMA-mapped Floodplains are shown on FEMA's DFIRM, FIRM and FBFM maps.

Flowback: means the liquid used in Hydraulic Fracturing operations that returns to the surface after being injected into the formation.

Flowline: means a segment of pipe transferring oil, gas, or condensate and/or water between a wellhead and processing equipment to the load point or point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated Gathering Line or a segment of pipe transferring Produced Water between a wellhead and the point of disposal, discharge, or loading. This definition of Flowline does not include a Gathering Line. The different types of Flowlines are:

1. *Wellhead Line:* A Flowline that transfers Well production fluids from an Oil or Gas Well to processing equipment (e.g., separator, production separator, Tank, heater treater), not including preconditioning equipment such as sand traps and line heaters, which do not materially reduce line pressure.
2. *Production Piping:* A segment of pipe that transfers Well production fluids from a wellhead line or production equipment to a Gathering Line or storage vessel and includes the following:
 - A. *Production Line:* A Flowline connecting a separator to a meter, LACT, or Gathering Line;
 - B. *Dump Line:* A Flowline that transfers Produced Water, crude oil, or condensate to a storage Tank, Pit, or process vessel and operates at or near atmospheric pressure at the Flowline's outlet;
 - C. *Manifold Piping:* A Flowline that transfers fluids into a piece of Production Facility equipment from lines that have been joined together to comingle fluids; and
 - D. *Process Piping:* All other piping that is integral to oil and gas exploration and production related to an individual piece or a set of Production Facility equipment pieces.
3. *Off-Location Flowline:* A Flowline transferring produced fluids (crude oil, natural gas, condensate, or Produced Water) from an Oil and Gas Location to a Production Facility, injection facility, Pit, or discharge point that is not on the same Oil and Gas Location. This definition also includes Flowlines connecting to gas compressors or gas plants.
4. *Peripheral Piping:* A Flowline that transfers fluids such as fuel gas, lift gas, instrument gas, or power fluids between Oil and Gas Facilities for lease use.
5. *Produced Water Flowline:* A Flowline on the Oil and Gas Location used to transfer Produced Water for treatment, storage, discharge, injection or reuse for Oil and Gas Operations.

A segment of pipe transferring only Fresh Water is not a Flowline.

Fresh Water: means water currently being used as drinking water or having a total dissolved solids (TDS) concentration of less than ten thousand (10,000) milligrams per liter (mg/l).

Freshwater Pit: means a man-made depression in the ground that is lined with an impermeable substance which contains Fresh Water used for drilling or Hydraulic Fracturing operations.

Future School Facility: means a School Facility that is not yet built, but that the School or School Governing Body plans to build and use for students and staff within three (3) years of the date the School or School Governing Body receives a 1041 E-OGLA Permit notice pursuant to this Chapter. To be considered a Future School Facility, the following requirements must be satisfied:

1. For public, non-charter Schools, the School Governing Body must affirm the nature, timing, and location of the Future School Facility in writing; or
2. For charter Schools, the School must have been approved by the appropriate School district or the State Charter School Institute, Section 22-30.5-505, C.R.S., at the time it receives a 1041 E-OGLA Permit notice pursuant to this Chapter, and the School Governing Body must affirm the nature, timing, and location of the Future School Facility in writing; or
3. For private Schools, the School Governing Body must be registered with the Office of the Colorado Secretary of State at the time it receives a 1041 E-OGLA Permit notice pursuant to this Chapter, and must provide documentation proving its registration with the Office of the Colorado Secretary of State, its tax-exempt status, and its submitted Land Use plans to the relevant Local Government building and Community Development office.

Gas Facility: means those facilities that process or compress natural gas after production-related activities which are conducted at or near the wellhead and prior to a point where the gas is transferred to a carrier for transport.

Gas Storage Well: means any Well drilled for the injection, withdrawal, production, observation, or monitoring of natural gas stored in underground formations. The fact that any such Well is used incidentally for the production of native gas or the enhanced recovery of native hydrocarbons shall not affect its status as a Gas Storage Well.

Gas Well: means a Well, the principal production of which at the mouth of the Well is gas, as defined by the Oil and Gas Conservation Act of the State of Colorado ("the Act").

Gathering Line: means a gathering Pipeline or system as defined by the Colorado Public Utilities Commission, Regulation No. 4, 4 C.C.R. 723-4901, Part 4, (4 C.C.R. 723-4901) or a Pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. Section 195.2 or 192.8; 49 C.F.R. Section 195.2 or 192.8; and 4 C.C.R. 723-4901 in existence as of the date of this regulation and does not include later amendments. Additionally, 49 C.F.R. Section 195.2 or 192.8 may be found at <https://www.phmsa.dot.gov> and 4 C.C.R. 723-4901 may be found at <https://www.sos.state.co.us>.

Groundwater: means subsurface waters in a zone of saturation.

High Occupancy Building Unit: means any Nursing Facility as defined in Section 25.5-4-103(14), C.R.S., Hospital, Life Care Institutions as defined in Section 12-13-101, C.R.S., or Correctional Facility as defined in Section 17-1-102(1.7), C.R.S., provided the facility or institution regularly serves fifty (50) or more persons.

High Priority Habitat: means the high priority wildlife habitat areas in the City of Evans identified in Rule 1203 of the COGCC Rules. This is a reference map available through Colorado Parks and Wildlife or may be available through the Colorado Oil and Gas Conservation Commission database.

HMWMD: means Hazardous Materials and Waste Management Division of the CDPHE.

Hydraulic Fracturing: means all stages of the stimulation process of a Well by the application of Hydraulic Fracturing Fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formations to enhance production of oil and natural gas.

Hydraulic Fracturing Fluid: means the fluid used to perform Hydraulic Fracturing.

LACT (Lease Automated Custody Transfer): means the transfer of produced crude oil or condensate, after processing or treating in the producing operations, from storage vessels or automated transfer facilities to Pipelines or any other form of transportation.

Land Application: means the disposal method by which E&P Waste is spread upon or sometimes mixed into soils.

Land Treatment: means the treatment method by which E&P Waste is applied to soils and treated to result in a reduction of hydrocarbon concentration by biodegradation and other natural attenuation processes. Land Treatment may be enhanced by tilling, disking, aerating, composting and the addition of nutrients or microbes.

Local Government: means a City (in this Title other than Evans), home rule or statutory city, town, territorial charter city, county, or any special district established pursuant to the Special District Act, Sections 32-1-101 to 32-11-807 (2013) C.R.S, which is located within two thousand (2,000) feet from the Oil and Gas Location.

Local Governmental Designee ("LGD"): means the office designated to receive, on behalf of the Local Government, copies of all documents required to be filed with the LGD pursuant to these rules.

Mineral Owner: means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for such owner or others, including owners of a Well capable of producing oil or gas, or both.

Minimize Adverse Impacts: means, wherever reasonably practicable, and taking into consideration cost effectiveness, technical feasibility and the Development Standards set forth in this Title, to avoid adverse impacts to public health, safety, environment and Wildlife Resources, including cumulative impacts where practicable Operators shall consolidate facilities and Pipeline rights-of-way, and minimize the extent and severity of those impacts that cannot be avoided considering such minimization is reasonably practicable, takes into consideration cost effectiveness, and is technically feasible.

Multi-Well Pits: means Pits used for treatment, storage, recycling, reuse, or disposal of E&P Wastes generated from more than one (1) Well that will be in use for no more than three (3) years.

Non-Crop Land: means all lands which are not defined as Crop Land, including range land.

OGED: means the Weld County Oil and Gas Energy Department.

OGED Director: means the Director of the Weld County Oil and Gas Energy Department, or their designee.

Oil and Gas Facility: means equipment or improvements used or installed at an Oil and Gas Location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, E&P Waste, or gas. Oil and Gas Facility may also be referred herein in certain circumstances synonymously as "Facility." *Oil and Gas Location:* means a definable area where an Operator has disturbed or intends to disturb the land surface to locate an Oil and Gas Facility. Oil and Gas Location may also be referred to herein in certain circumstances synonymously as "Disturbance Area" or "Location."

Oil and Gas Operations: means exploration for and production of oil and gas, including, but not limited to, conducting seismic operations and the drilling of test bores; siting, drilling, deepening, recompleting, reworking, injection of fluids for Enhanced Recovery, or abandoning a Well; producing operations related to any Well, including installing Flowlines; the generating, transporting, storing, treating, or disposing exploration and production wastes; and any constructing, site preparing, or reclaiming activities associated with such operations, some of which these operations may not be permissible in Evans.

Oil and Gas Solar Energy Facility (OGSEF): means a facility whose primary purpose is to supply electricity to the Oil and Gas Location and consists of one or more solar arrays and other accessory structures and equipment. The OGSEF shall be no more than ten (10) acres in size, and shall be contiguous to, as well as considered part of, the Oil and Gas Location. Procedures for approval and operation of OGSEF's shall be included in the 1041 E-OGLA Permit.

Oily Waste: means those materials containing crude oil, condensate, or other E&P waste, such as soil, frac sand, drilling fluids, and pit sludge that contain hydrocarbons.

Oil Well: means a Well, the principal production of which at the mouth of the Well is oil, as defined by the Act.

Operator: means any Person who exercises the right to control the conduct of Oil and Gas Operations. An Operator may be an Applicant for a 1041 E-OGLA Permit. The Operator may be referred to herein as the "1041 E-OGLA Permittee" or "Applicant."

Operator Registration: means the process by which a Person, company or other entity has submitted an Operator Registration to the OGED Director. Operator Registration shall be completed on a form provided by OGED and shall be kept on record so long as the Person, company or other entity has operational Wells, Oil and Gas Facilities, Oil and Gas Locations in the City. The Operator Registration shall also be provided to the Evans Community Development Department by the Operator.

Overlay Zoning Districts: when used in this Chapter, shall have the same meaning as the definition included in Chapter 18.03.

Person: means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind.

Pipeline: for this Chapter, means a Flowline, crude oil transfer line or Gathering Line as defined herein.

Pit: means any natural or man-made depression in the ground used for oil or gas exploration or production purposes. Pit does not include Fresh Water Pits, steel, fiberglass, concrete or other similar vessels which do not Release their contents to surrounding soils.

Plugging and Abandonment (P&A): means the cementing of a Well, the removal of its associated Production Facilities, the abandonment of its Flowline(s), and the Remediation and Reclamation of the wellsite.

Point of Compliance: means one (1) or more points or locations at which compliance with applicable Groundwater standards established under Water Quality Control Commission Basic Standards for Groundwater, Section 3.11.4, must be achieved.

Pollution: means man-made or man-induced contamination or other degradation of the physical, Chemical, biological, or radiological integrity of air, water, soil, or biological resource.

Production Facility: means any storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, and other equipment directly associated with a Well.

Production Phase: means all those activities on an Oil and Gas Location related to production that occur after the Wells are first turned to sales, or interim Reclamation has been performed in accordance with this Title.

Production Pit: means a man-made depression in the ground that is lined with an impermeable substance which is used after drilling operations and initial Completion of a well. Production ponds include:

1. *Produced Water Pit:* means a man-made depression in the ground that is lined with an impermeable substance used to temporarily store Produced Water prior to injection for enhanced recovery or disposal, off-site transport, or surface-water discharge.
2. *Evaporation Pit:* means a man-made depression in the ground that is lined with an impermeable substance used to contain Produced Waters which evaporate into the atmosphere by natural thermal forces.

Produced Water: means water extracted from the earth from an oil or natural gas production well, or separated from crude oil, condensate, or natural gas after extraction.

Proppant: means sand or any natural or man-made material that is used in a Hydraulic Fracturing to prop open the artificially created or enhance natural fractures within the formation during Completion operations.

Public Water System: means those systems shown and/or listed in Appendix VI of the COGCC Rules. These systems provide to the public water for human consumption through pipes or other constructed conveyances, if

such systems have at least fifteen (15) service connections or regularly serve an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such definition includes:

1. Any collection, treatment, storage, and distribution facilities under control of the Operator of such system and used primarily in connection with such system.
2. Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.

The definition of "Public Water System" does not include any "special irrigation district," as defined in Colorado Primary Drinking Water Regulations (5 C.C.R. 1003.1).

Reclamation: means the process of returning or restoring the surface of disturbed land as nearly as practicable to its condition prior to the commencement of Oil and Gas Operations or to landowner specifications. Reclamation may be interim or final as set forth in this Title.

Reference Area: means an area either (1) on a portion of the site that will not be disturbed by Oil and Gas Operations, if that is the desired final Reclamation; or (2) another location that is undisturbed by Oil and Gas Operations and proximate and similar to a proposed Oil and Gas Location in terms of vegetative potential and management, owned by a person who agrees to allow periodic access to it by the City of Evans, the Weld County OGED Director and the Operator for the purpose of providing baseline information for Reclamation standards, and intended to reflect the desired final Reclamation.

Release: means any unauthorized discharge of E&P Waste to the environment over time.

Remediation: means the process of reducing the concentration of a contaminant or contaminants in water or soil to the extent necessary to ensure compliance with the concentration levels found in the Weld County Code, and other applicable ground water standards and classifications.

Remote Location: means an Oil and Gas Location where there are no sensitive receptors (e.g. Building Units, High Priority Habitats, or Designated Outside Activity Areas) that are located within 1.0 mile (5,280 ft.), a remote location may otherwise be determined by the City of Evans Community Development Department and OGED Director based on existing topographical, geographical, and other factors.

Reserve Pits: means those Pits used to store drilling fluids for use in drilling operations or to contain E&P Waste generated during drilling operations and initial Completion procedures.

Residential Building Unit: means a building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for Temporary occupancy, or for business purposes.

Responsible Party: means an owner or Operator who conducts an Oil and Gas Operation in a manner which is in contravention of any then-applicable provision of this Code, or order of the Hearing Officer, or of any permit, that threatens to cause, or actually causes, a significant adverse environmental impact to any air, water, soil, or biological resource. Responsible Party includes any person who disposes of any other waste by mixing it with exploration and production waste so as to threaten to cause, or actually cause, a significant adverse environmental impact to any air, water, soil, or biological resource.

Riser: means the component of a Flowline transitioning from below grade to above grade.

School: means any operating Public School as defined in Section 22-7-703(4), C.R.S., including any Charter School as defined in Section 22-30.5-103(2), C.R.S., or Section 22-30.5-502(6), C.R.S., or Private School as defined in Section 22-30.5-103(6.5) C.R.S.

School Facility: means any discrete facility or area (property), whether indoor or outdoor, associated with a School, that students use commonly as part of their curriculum or extracurricular activities. A School Facility is either adjacent to or owned by the School or School Governing Body, and the School or School Governing Body has the legal right to use the School Facility at its discretion. The definition includes Future School Facility.

School Governing Body: means the School district board or board of directors for public Schools or the board of trustees, board of directors, or any other body or person charged with administering a private School or group of private Schools, or any-body or person responsible for administering or operating a Child Care Center. A School Governing Body may delegate its rights under these rules, in writing, to a superintendent or other staff member, or to a principal or senior administrator of a School that is in proximity to the proposed Oil and Gas Location.

Sensitive Area: means an area vulnerable to potential significant adverse Groundwater impacts, due to factors such as the presence of shallow Groundwater or pathways for communication with deeper Groundwater; proximity to surface water, including lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, and wetlands. Additionally, areas classified for domestic use by the Colorado Water Quality Control Commission, local (water supply) wellhead protection areas, areas within one-eighth ($\frac{1}{8}$) mile of a domestic water Well, areas within one-quarter ($\frac{1}{4}$) mile of a public water supply Well, ground water basins designated by the Colorado Ground Water Commission, and surface water supply areas are Sensitive Areas. When the Operator, City of Evans or OGED Director has data that indicate an impact or threat of impact to ground water or surface water, the City of Evans and/or the OGED Director may require the Operator to make a Sensitive Area determination and that determination shall be subject to the City's and / or OGED Director's approval. The Sensitive Area determination shall be made using appropriate geologic and hydrogeologic data to evaluate the potential for impact to ground water and surface water, such as soil borings, monitoring Wells, or percolation tests that demonstrate that seepage will not reach underlying ground water or Waters of the State and impact current or future uses of these waters. Operators shall submit data evaluated and analysis used in the determination to the City and OGED Director. Operations in Sensitive Areas shall incorporate adequate measures and controls to prevent significant adverse environmental impacts and ensure compliance with the concentration levels consistent with standards applied in the Weld County Code, with consideration to WQCC standards and classifications.

Site Analysis: means the comprehensive Community Development process performed by the Applicant which considers the site the Applicant intends to deliver to Staff inside of a 1041 E-OGLA Permit Application against one or more alternative sites considered by the Applicant in terms of protecting public health, safety, welfare, environment and wildlife.

Solid Waste: means any garbage, refuse, sludge from a waste treatment plant, water supply plant, air pollution control facility, or other discarded material; including solid, liquid, semisolid, or contained gaseous material resulting from industrial operations, commercial operations, or community activities. Solid Waste does not include any solid or dissolved materials in domestic sewage, or agricultural wastes, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under the provisions of the Colorado Water Quality Control Act, Title 25, Article 8, C.R.S. or materials handled at facilities licensed pursuant to the provisions on radiation control in Title 25, Article 11, C.R.S. Solid Waste does not include: (a) materials handled at facilities licensed pursuant to the provisions on radiation control in Title 25, Article 11, C.R.S.; (b) excluded scrap metal that is being recycled; or (c) shredded circuit boards that are being recycled.

Solid Waste Disposal: means the storage, treatment, utilization, processing, or final disposal of Solid Wastes.

Special Purpose Pits: means Pits used in Oil and Gas Operations, including Pits related to Produced Water Flowlines or associated with E&P Waste from gas gathering, processing and storage facilities, which constitute:

1. Blowdown Pits used to collect material resulting from, including but not limited to, the emptying or depressurizing of Wells, vessels, or Flowlines, or E&P Waste from gathering systems.
2. Flare Pits used exclusively for flaring gas.
3. Basic Sediment/Tank Bottom Pits used to temporarily store or treat the extraneous materials in crude oil which may settle to the bottoms of Tanks or production vessels and which may contain residual oil.
4. Workover Pits used to contain liquids during the performance of remedial operations on a producing Well to increase production.
5. Plugging Pits used for containment of fluids encountered during the plugging process

Spill: means any unauthorized sudden discharge of E&P Waste to the environment.

Spud: means to start the Well drilling process by removing rock, dirt, and other sedimentary material with the drill bit.

Stormwater Runoff: means rain or snowmelt that flows over land and does not percolate into soil and includes stormwater that flows onto and off an Oil and Gas Location or Oil and Gas Facility.

Stratigraphic Well: means a Well drilled for stratigraphic information only. Wells drilled in a delineated Field to known productive horizons shall not be classified as "stratigraphic." Neither the term "Well" nor "Stratigraphic Well" shall include seismic holes drilled for obtaining geophysical information only.

Sundry Form: means a multipurpose form supplied by the City of Evans and the OGED used by the Operator to request approval of proposed amendments or provide notice of various operations on any Oil & Gas Location or Facility located in the Evans Mineral Resource (Oil and Gas) Area. It may also be referred to herein as "1041 E- OGLA Sundry Form", "Sundry" or "Amendment."

Surface Owner: means any person currently owning all or part of the surface of land upon which Oil and Gas Operations are conducted, as shown by the tax records of the City in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

Surface Use Agreement ("SUA"): means any agreement in the nature of a contract or other form of document, signed by the landowner and notarized, binding on the Operator, including any lease, damage agreement, waiver, Local Government approval or permit, or other form of agreement, which governs the Operator's activities within the Oil and Gas Location.

Surface Water Intake: means the works or structures at the head of a conduit through which water is diverted from a Classified Water Supply Segment and/or source (e.g., river or lake) into the treatment plant.

Surface Water Supply Area: means the Classified Water Supply Segments within five (5) stream miles upstream of a Surface Water Intake on a Classified Water Supply Segment. Surface Water Supply Areas shall be identified on the Public Water System Surface Water Supply Area Map.

Tank: means a stationary vessel constructed of non-earthen materials (e.g. concrete, steel, plastic) that provides structural support and is designed and operated to store produced fluids or E&P Waste. Examples include, but are not limited to, condensate Tanks, crude oil Tanks, Produced Water Tanks, and gun barrels. Exclusions include containers and process vessels such as separators, heater treaters, free water knockouts, and slug catchers.

Temporary: means a period of six (6) months or less.

Turn-in-Line: means a well turned to sales, and may also be referred to herein as "TIL."

USDA: means the United States Department of Agriculture.

Use: means any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation which is carried on, in or on a structure or on a tract of land. The term may also be referred to herein as "Land Use".

Weed: means any undesirable plant.

Well: means an Oil Well or Gas Well, a hole drilled for the purpose of producing oil or gas, a Well into which fluids are injected, a Stratigraphic Well, a Gas Storage Well, or a Well used for the purpose of monitoring or observing a reservoir.

Well Site: means the areas that are directly disturbed during the drilling and subsequent operation of, or affected by Production Facilities directly associated with, any Oil Well, Gas Well, or injection Well and its associated Well pad.

Wildlife Resources: means fish, wildlife, and their aquatic and terrestrial habitats.

WQCC: means Water Quality Control Commission of the CDPHE.

WQCD: means Water Quality Control Division of the CDPHE.

All Other Words used herein shall be given their usual customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry. A definition may be provided however, provision of a definition of a use does not equate to allowance of the use.

18.12.320. Applicability and general rules.

- A. An Evans Oil and Gas Location Assessment pursuant to this Chapter ("1041 E-OGLA") requires additional consideration to ensure the Oil and Gas Facility and Oil and Gas Location are developed in a manner that complies with various Development Standards set forth in this Chapter and provides compatibility with Uses located within two thousand (2,000) feet of the Oil and Gas Location (including School Facilities and Child Care Centers within two thousand (2,000) feet of the Oil and Gas Location). The 1041 E-OGLA Permit is designed to protect and promote the health, safety, and welfare of the City's citizens, environment, and wildlife.
- B. A 1041 E-OGLA Permit is required for all oil and gas development in the City after adoption of this Title for the construction of an Oil and Gas Location in all zone districts. Existing approved oil and/or gas facilities in Evans may be required to obtain a new 1041 E-OGLA Permit and are subject to the Development Standards as set forth in this Title.
- C. No Oil and Gas Facility shall be constructed in any zone district until a 1041 E-OGLA Permit has been granted by a 1041 WOGLA Hearing Officer, and accepted by City Council pursuant to the procedures set forth below or following appeal to the City Council pursuant to provisions of this Chapter. A Development Agreement is needed to be entered into between the Operator and the City and shall occur after the W-OGLA Hearing Officer sends the E-OGLA permit to the City for acceptance by City Council. This applies to:
 - 1. Any new Oil and Gas Location, meaning surface disturbance at a previously undisturbed or fully reclaimed site;
 - 2. Surface disturbance for purposes of permanently expanding an existing Oil and Gas Location beyond the originally disturbed area; and
 - 3. Major changes to an existing Oil and Gas Facility or Oil and Gas Location as outlined in this Chapter.
- D. No 1041 E-OGLA Permit shall be required for:
 - 1. An Oil and Gas Location or Facility for which an application has been submitted to the COGCC on or before April 4, 2022.
 - 2. Refracs, recompletions, or routine Well Site operations, including, but not limited to, swabbing, workovers and normal repairs and maintenance of an existing Oil and Gas Facility. Like kind replacement of equipment would be considered routine Well Site operations.
 - 3. Surface disturbance at an existing Oil and Gas Location within the original disturbed area which does not have the effect of permanently expanding the Oil and Gas Facility or the Oil and Gas Location.
 - 4. Repairs or maintenance of an Oil and Gas Facility required by a state or federal compliance order.
 - 5. Facilities permitted, constructed, operated and maintained pursuant to the municipal code in effect prior to the effective date of this Chapter, including, but not limited to, Oil and Gas Facilities.

However, other permits or agreements may need to be obtained for the activities listed above, including those permits or agreements listed in this Chapter, as well as any applicable County, State or Federal permits.

- E. Changes of use, changes of equipment, or any other changes or modifications to an Oil and Gas Location or Oil and Gas Facility located within the Evans Mineral Resources (Oil and Gas) Area shall submit documentation via the Sundry Form as outlined in this Chapter.
- F. Any person or Operator filing an Application for a 1041 E-OGLA Permit shall comply with the procedures and regulations set forth in this Chapter.

- G. Any person or Operator filing an Application for a 1041 E-OGLA Permit shall comply with this Chapter if the proposal is located within any Overlay District Area or a Special Flood Hazard Area identified by maps officially adopted by the City.
- H. Applications for a 1041 E-OGLA Permit shall be completed as set forth in this Chapter. The completed Application and application fees shall be submitted to the City of Evans.
- I. The review, consideration and issuance of a 1041 E-OGLA Permit is an administrative hearing process. Oil and gas exploration and production in Evans is considered Development as that term is defined in this Chapter, C.R.S. As such, Section 24-65.1-108, C.R.S., is applicable to permitting of oil and gas development in Evans.
- J. Information regarding the status of or facts and circumstances regarding an approved 1041 E-OGLA Permit, including any desired changes or modifications, may be transmitted by a 1041 E-OGLA Permittee to the City's Community Development Director via electronic means.

18.12.330. Relationship of 1041 E-OGLA Regulations to other City, County, state, and federal requirements affecting oil and gas exploration and production.

- A. Nothing in these 1041 E-OGLA Regulations shall be construed as exempting an Applicant for a 1041 E-OGLA Permit from any other requirements of this City.
- B. As stated in, above, these 1041 E-OGLA Regulations are written, in part, according to the authority granted exclusively to Local Governments in Subsections 29-20-104(1)(g) and (1)(h), C.R.S., and are intended to address the following areas and topics regarding oil and gas exploration and production in Evans:
 - 1. Land Use;
 - 2. The location and siting of Oil and Gas Facilities and Oil and Gas Locations;
 - 3. Impacts to public facilities and services;
 - 4. Water quality and source, noise, vibration, odor, light, dust, air emissions and air quality, land disturbance, Reclamation procedures, cultural resources, emergency preparedness and coordination with first responders, security, and traffic and transportation impacts;
 - 5. Financial securities, indemnification, and insurance as appropriate to ensure compliance with these 1041 E-OGLA Regulations;
 - 6. All other nuisance-type effects of oil and gas development addressed in these 1041 E-OGLA Regulations; and
 - 7. Guiding the development for and regulating the Use of land so as to provide planned and orderly Use of land and protection of the environment in a manner consistent with constitutional rights.
- C. These 1041 E-OGLA Regulations are written pursuant to the authorities granted to Evans in the AASIA and specifically the express authorities set forth in Sections 24-65.1-202 and 24-65.1-402, C.R.S., to adopt guidelines and regulations governing oil and gas exploration and production in Evans. To the extent these 1041 E-OGLA Regulations are inconsistent with the regulations of COGCC regarding any of the areas and topics regarding oil and gas exploration and production in Evans listed above, these 1041 E-OGLA Regulations control.
- D. Pursuant to Section 34-60-131, C.R.S., it is the intent of the City Council to regulate oil and gas exploration and production in Evans cooperatively with Weld County and the COGCC, deferring regulation of the areas and topics regarding oil and gas exploration and production not addressed in these 1041 E-OGLA Regulations to the COGCC.

18.12.340. Operator Registration.

Prior to construction or operation of facilities related to upstream Oil and Gas Operations, an Operator shall submit a one-time Operator Registration Form provided by the OGED Director of Weld County and the Operator shall present a copy of the same to the Evans Community Development Director.

18.12.350 Designation of the entire boundary for the City of Evans, and any future expansion, as a mineral resource (oil and gas) area of state interest.

The City Council, having considered the intensity of current and foreseeable development pressures; the Guidelines and Criteria for Identification and Land-Use Controls of Geologic Hazard and Mineral Resource Areas, Special Publication 06, Colorado Geological Survey/Dept. of Natural Resources/Denver, Colorado/1974 (a mapping layer is available on the Weld County GIS website); the guidelines set forth in Section 24-65.1-202, C.R.S.; and the provisions and requirements of these 1041 E-OGLA Regulations, hereby orders that the designation of the entire incorporated area of Evans, and as it may expand, a mineral resource (oil and gas) area of state interest [the "Evans Mineral Resource (Oil and Gas) Area"] made by the City Council on April 4, 2022, is hereby ratified and confirmed and that this activity shall be regulated pursuant to the provisions of this Chapter.

18.12.360. Reasons for designation.

Because oil and gas resources are found throughout the incorporated area of Evans and are being developed rapidly, the City Council has designated the incorporated area of Evans, as it may expand over time, as a mineral resource (oil and gas) area:

- A. To regulate oil and gas development in a manner that respects local values and protects the health, safety and welfare of the City's community and environment;
- B. To ensure coordination and compatibility between oil and gas exploration and future land use planning;
- C. To adequately plan for and properly mitigate the instances of encroachment of residential development upon existing Oil and Gas Operations; and
- D. To have local oversight in Land Use Community Development decisions regarding oil and gas exploration and production in Evans.

18.12.370. Prohibition on exploration or production of oil and gas within the City of Evans Mineral Resource (Oil and Gas) Area without a 1041 E-OGLA Permit.

- A. No person may explore or produce oil and gas within the Evans Mineral Resource (Oil and Gas) Area without first obtaining a 1041 E-OGLA Permit pursuant to these 1041 E-OGLA Regulations.
- B. The City may not issue a building permit for purposes of exploration or extraction of oil and gas within the Evans Mineral Resource (Oil and Gas) Area without the Applicant first having obtained a 1041 E-OGLA Permit pursuant to these 1041 E-OGLA Regulations.
- C. Operator Registration. All persons or entities desiring to perform Oil and Gas Operations within the Evans Mineral Resource (Oil and Gas) Area shall have a valid Operator Registration Form on file with OGED and the City's Community Development Department.

18.12.380. Procedural requirements.

The Application, notice, and conduct of 1041 E-OGLA Permit hearings, appeal of Hearing Officer decisions and issuance and content of permits for exploration or production of oil and gas within the Evans Mineral Resource (Oil and Gas) Area shall comply with the provisions set forth in this Chapter.

18.12.390. Comprehensive Development Plans (CDPs).

Operators are encouraged to initiate and enter into Comprehensive Development Plans ("CDP") where feasible and with the agreement of Surface Owner(s). CDPs will identify foreseeable oil and gas activities in a defined geographic area, facilitate discussions about potential cumulative impacts, and identify mitigation measures to Minimize Adverse Impacts to public health, safety, welfare, and environment, including Wildlife Resources. The plan shall (a) identify natural features of the geographic area, including vegetation, Wildlife Resources, and other attributes of the physical environment; (b) describe the Operator's future Oil and Gas Operations in the area; (c) identify potential impacts from such operations; (d) develop agreed-upon measures to avoid, minimize, and mitigate the identified potential impacts; and (e) include other relevant information. A Comprehensive Development Plan must be approved by the City of Evans, the Weld County 1041 Hearing Officer and shall be valid for a period of up to ten (10) years, as recommended by the City of Evans Community Development Director and the Weld County OGED Director, and as approved by the Hearing Officer, unless extended by the 1041 E-OGLA Hearing Officer with City approval.

18.12.400. Pre-application meeting and 1041 E-OGLA notice.

- A. *Pre-application meeting.* Prior to delivery of the 1041 E-OGLA notice, the Applicant shall request a pre-application meeting with the OGED Director. The OGED Director will coordinate with the Community Development Director. This meeting may be conducted through a face-to-face meeting, electronic mail exchange, or conference call, as determined by both the Community Development Director and the OGED Director. The purpose of the pre-application meeting is to give the Applicant an opportunity to demonstrate, through written and graphic information, how the Oil and Gas Location complies with the standards set forth in this Chapter, while protecting the health, safety, and welfare of the City's citizens, environment, and wildlife. One of the primary reasons for the pre-application meeting is to discuss comprehensive Community Development and pros and cons of alternative sites. The following shall be submitted to the OGED Director as part of the request for a pre-application meeting:
1. *Pre-Application Meeting Request.* The pre-application meeting request shall be submitted by the Applicant on the current form supplied by the OGED.
 2. *Development Area drawing.* The purpose of the Development Area (DA) drawing is to illustrate the surroundings to assist in comprehensive Community Development and in the discussion of Oil and Gas Location siting. The drawing shall identify the DA for which the Wells on the Oil and Gas Location are intended to produce, and the preferred site the Applicant is considering. In the case of an Oil and Gas Location with no Wells, the Well(s) producing to that Oil and Gas Location shall be identified.
 3. *Proposed Haul Route map.* The purpose of the haul route map is to identify the Applicant's desired route to and from the preferred Oil and Gas Location. The map shall identify the proposed haul route, including off-site haul route(s), from the preferred Oil and Gas Location to the nearest City designated collector or arterial roadway or nearest highway, and indicate the desired new or existing access point.
 4. Surface Owner name, address, phone number and date of signed SUA, if available.

Upon submittal of the request, the OGED Director shall be responsible for scheduling the pre-application meeting. This meeting shall take place within fourteen (14) business days of the submitted request. Attendees of the pre-application meeting will be the Applicant, the Community Development Director, and the OGED Director. Invitations to participate in the pre-application meeting will also be sent to the COGCC Director, CPW (if the

proposed Oil and Gas Location is within a High Priority Habitat), and any other entity as determined by the Community Development Director and/or the OGED Director. The requirement of the pre-application meeting may be waived but only on the approval of both the Community Development Director and the OGED Director.

At the conclusion of the pre-application meeting, the Applicant shall send 1041 E-OGLA notice to all required notice parties listed in this Chapter, below. The notice shall encompass any agreed upon changes resulting from the pre-application meeting.

- B. *1041 E-OGLA notice.* Within six (6) months of the pre-application meeting the 1041 E-OGLA notice shall be delivered by the Applicant to the following parties:
1. The Community Development Director
 2. The OGED Director;
 3. The Surface Owner;
 4. Property owner(s) whose property boundaries are located within two thousand (2,000) feet or less of the Oil and Gas Location (as determined by the Weld County Assessor's records at the time of notice);
 5. The COGCC Director;
 6. The CPW regional representative;
 7. The LGD for Local Government(s) whose boundaries are within two thousand (2,000) feet or less of the Oil & Gas Location; and
 8. The principal, senior administrator, or School Governing Body of any School Facility, Future School Facility, or Child Care Center whose properties or jurisdictional boundaries are located within two thousand (2,000) feet or less of the Oil and Gas Location.
- C. Delivery of the 1041 E-OGLA notice shall occur not more than six (6) months, nor less than thirty (30) days, prior to submitting a 1041 E-OGLA Permit application. The thirty (30) day period may be waived, at the discretion of both the Community Development Director and the OGED Director. The 1041 E-OGLA notice letter shall include the following information:
1. The parcel number and legal description of the Oil and Gas Location.
 2. A general description of the proposed Oil and Gas Facility, including the number of proposed wells.
 3. Total disturbed acreage of the Oil and Gas Location.
 4. The anticipated date operations will commence (calendar quarter and year).
 5. A statement that the notice recipient may request a meeting to discuss the proposed Oil and Gas Location with the Operator, Weld County and the City.
 - a) Operator, assigned OGED Permit and Enforcement Specialist, and City Community Development Department's contact information shall be provided.
 6. A statement that the Applicant will consider reasonable mitigation measures proposed by the notice recipient to Minimize Adverse Impacts of the proposed Oil and Gas Location.
 7. The following shall be attached to the notice:
 - a) Notification Zone drawing. The purpose of the notification zone drawing is to identify any required notice parties. This shall be a scaled drawing with scaled aerial imagery of the Oil and Gas Location to include the 1041 E-OGLA Zone, all property lines and parcel numbers, as well as the name and address of the owner(s) of any parcel(s) located within two thousand (2,000) feet of the Oil and Gas Location, as determined by the Weld County Assessor's records.

- b) Haul Route map. The purpose of the haul route map is to identify the Applicant's desired route to and from the Oil and Gas Location. The map shall identify the proposed haul route, including off-site haul route(s), from the Oil and Gas Location to the nearest City designated collector or arterial roadway or nearest highway, and indicate the desired new or existing access point.

D. Upon receipt of the 1041 E-OGLA notice by the OGED Director and the Community Development Director, they may request additional parties to be noticed. If requested, the Applicant shall provide proof of notice delivered. All required notice parties may waive receipt of such notice(s) via Surface Use Agreement (SUA) or other agreement with the Operator or by written request to the Community Development Director and the Weld County OGED Director.

18.12.410. Application requirements for 1041 E-OGLA Permit.

A 1041 E-OGLA Permit application shall be submitted to the Community Development Director and OGED Director, or their designee for processing and determination of whether the application is complete and in compliance with the requirements of this Section. The following shall be submitted as a part of the application:

- A. *Evans Oil and Gas Location Assessment Application.* A 1041 E-OGLA Permit application shall be submitted by electronic transmission format acceptable to the City.
1. *Application.* A 1041 E-OGLA Permit application on the current form supplied by the City of Evans Community Development Department, shall be fully completed and executed by the Applicant. If an authorized legal agent signs the application on behalf of the Applicant, evidence of a power of attorney or other authorization must be provided.
 2. *Certification of 1041 E-OGLA Notice.* Completion of this form certifies that a 1041 E-OGLA notice has been delivered to all required notice parties, pursuant to this Chapter.
 3. *Certification of Surface Use Agreement.* Completion of this form certifies that a SUA or other agreement has been executed between the Operator and the Surface Owner(s) of the property where the Oil and Gas Location will be located. This form demonstrates that the Operator and Surface Owner have agreed to the Oil and Gas Location. If no SUA or other document is available at the time of application, the Applicant shall proceed with the 1041 E-OGLA Permit process and shall provide a statement that the SUA, or other agreement negotiations are taking place and the Applicant is willing to provide financial security as set forth in this Chapter. In the case where no SUA or other agreement is necessary, the Applicant shall provide a statement of explanation and attach supporting documentation.
 4. *Authorization.* Where an Applicant is not the Surface Owner of the parcel(s) on which the Oil and Gas Location is sited, an authorization form executed by the Surface Owner(s) must be provided. If a copy of the SUA is provided with the application, then the SUA's grant of access to the site fulfills the requirement of providing an authorization form.
 5. *Required Information.* The Applicant shall provide site-specific Best Management Practices (BMPs) illustrating how the health, safety, and welfare of City's residents, environment, and wildlife will be protected. With the consent of the Surface Owner(s), BMPs may include mitigation measures relevant to the SUA or other agreement.
 - a. A statement which explains that the application complies with the Evans Master Plan, if the Oil and Gas Location is within any Overlay District Area or a Special Flood Hazard Area identified by maps officially adopted by the City.
 - b. A thorough explanation of the Site Analysis the Applicant has performed for the Oil and Gas Location, as supported by the DA drawing described below. Each alternative site shall include a short narrative of its pros and cons. The Site Analysis, beginning with the pre-application meeting, must describe how the Applicant's proposed location is superior to

other alternatives considered by the Applicant in terms of protecting Evans' residents, resources and infrastructure. Although it is not incumbent upon an Applicant to describe a certain number of alternatives that were considered against the Applicant's chosen site, it is generally expected that the Applicant provide one or more alternatives within the analysis that the Applicant demonstrates as inferior. The Site Analysis may include more alternatives if the Applicant's chosen site has the following cultural items within two thousand (2,000) feet of the Applicant's chosen site as measured from the Disturbance Area to the cultural item: Building Units, High Occupancy Building Units, hospitals, Schools, churches, Sensitive Areas, High Priority Habitats, local government boundaries, and water resources including lakes, ponds, rivers, and ditches.

- c. BMPs and a narrative which explains how the Applicant will comply with the Development Standards set forth in this Chapter and any applicable County, state and federal regulations.
- d. A narrative describing plans for final Reclamation.
- e. A traffic narrative for the Oil and Gas Location addressing operations for construction, drilling, and completions, shall include the following information:
 - 1) The number of roundtrips/day (Roundtrip = 1 trip in and 1 trip out) expected for each vehicle (type, size, weight).
 - 2) The expected haul routes for the vehicles.
 - 3) The travel distribution along the routes (e.g. 50% of traffic will come from the north, 20% from the south, 30% from the east, etc.).
 - 4) The time of day when the highest traffic volumes are expected.

B. *Attachments.* The following shall be attached to the application:

1. *Haul Route Map.* The purpose of the haul route map is to identify the Applicant's desired route to and from the Oil and Gas Location. The map shall identify the proposed haul route, including off-site haul route(s), from the Oil and Gas Location to the nearest City designated collector or arterial roadway or nearest highway and indicate the desired new or existing access point.
2. *Development Area drawing.* The purpose of the Development Area (DA) drawing is to illustrate the surroundings to assist in comprehensive Community Development review and in the discussion of Oil and Gas Location siting. The drawing shall identify the DA for which the Wells on the Oil and Gas Location are intended to produce, and the preferred and alternative sites the Applicant is considering. In the case of an Oil and Gas Location with no Wells, the Well(s) producing to that Oil and Gas Location shall be identified.
3. *Location Photos.* A minimum of four (4) color photographs of the staked location, one (1) from each cardinal direction, shall be attached. Each photograph shall be identified by: date taken, location name, and direction of view.
4. *Location Drawing.* The purpose of the location drawing is to identify all visible improvements within the 1041 E-OGLA Zone. It shall be a scaled drawing with scaled aerial imagery to include horizontal distances and approximate bearing from the Oil and Gas Location for all visible improvements. This drawing shall be stamped by a licensed professional surveyor showing any survey monuments in the 1041 E-OGLA Zone and the City road right-of-way extents, if applicable.
5. *Facility Drawing.* The purpose of the facility drawing is to identify the positioning of all equipment on the Oil and Gas Location. This shall be a scaled drawing illustrating the approximate outline of the Oil and Gas Location and identifying all existing and proposed Well(s), equipment, and Flowline corridors on-location covered by the application.

6. *Process Flow Diagram.* A process flow diagram (PFD) depicts oil and gas production operations. The PFD shall be presented as a flowchart that illustrates the general flow of processes and equipment at an Oil and Gas Location. The PFD shall include all permanent Oil and Gas Facilities and shall show the flow path and direction of all oil, gas and water produced on, or transported to or from the Oil and Gas Location. The PFD shall also illustrate fuel and power sources for major equipment. The PFD need not include detailed piping and instrumentation.
 7. *Waste management plan.* A waste management plan shall be provided that describes the methods for storing, transporting and disposing of wastes. The plan must include a statement that waste materials will be handled in compliance with and should cite appropriate local, state and federal regulatory requirements. The plan should further provide that wastes stored on site will be stored in compatible containers that are regularly inspected to ensure they are in good condition and free of excessive wear, structural issues or other defects that may impact their effectiveness. Reports and information regarding the integrity and effectiveness of compatible containers will be made available for review upon request. At a minimum, the waste management plan must address the following waste streams: drilling fluids, drill cuttings, Hydraulic Fracturing Fluid, Flowback and Produced Water, oil stained soils, tank bottoms, general trash, hazardous materials, and other non-hazardous solid wastes.
 8. *Lighting plan.* A plan detailing lighting to be utilized during the Construction Phase, and if applicable, the Production Phase shall be attached as specified below.
- C. *Additional Attachments.* The following items may be required as attachments to the Application, if applicable:
1. Multi-well plan. If the proposed Oil and Gas Location is for multiple Wells on a single pad, a drawing showing proposed wellbore trajectory with bottom-hole locations shall be attached.
 2. Reclamation plan. If the final Land Use includes residential, industrial, commercial, or cropland, a reclamation plan is not needed. If the final Land Use includes rangeland, forestry, recreation, wildlife habitat, or any other non-excluded Land Use, the following information shall be attached:
 - A. Reference area map. A topographic map showing the Oil and Gas Location, and the location of the selected Reference Area; and
 - B. Reference area photos. Four (4) color photographs of the Reference Area, taken during the growing season of vegetation, one (1) from each cardinal director. Each photograph shall be identified by date taken, location name, and direction of view. Such photographs may be submitted to OGED and the City of Evans Community Development Department any time up to twelve (12) months after the granting of the 1041 E-OGLA Permit.
 3. Noise mitigation plan. A noise mitigation plan that describes how the Operator will comply with the maximum permissible noise levels specified below may be required. The plan shall include site-specific design for mitigation measures including the appropriate BMPs, engineering practices, and available technology the Operator will utilize to achieve compliance. The plan will provide an estimated duration of each stage of operations, including drilling, Completion, Flowback, production, and an estimate of the noise levels of each stage of operations. Lastly, the plan will reference any topographical and/or geographical features which may impact noise propagation from the proposed Oil and Gas Location.
 4. Dust Mitigation Plan
 5. Odor Mitigation Plan
 6. Oil and Gas Solar Energy Facility (OGSEF) plan
- D. *Additional City or County issued permits and agreements.* The following permits and agreements may be required either for the issuance of a 1041 E-OGLA Permit, or after approval of a 1041 E-OGLA Permit:

1. Both an Emergency Action Plan (EAP) and Tactical Response Plan (TRP) are required for a 1041 E-OGLA Permit. The Applicant shall complete an EAP and TRP on the template provided by the Weld County Office of Emergency Management (OEM). OEM will consult with the local fire district on behalf of the Applicant.
2. An Access Permit is required for a 1041 E-OGLA Permit. The Applicant shall complete an Access Permit application provided by the City of Evans Engineering Department. If the access point is under the jurisdiction of the Colorado Department of Transportation, Weld County, or a Local Government, proof of access granted by such Local Government ("Authority having Jurisdiction" or AHJ) is required.
3. A Road Maintenance Agreement (RMA), Comprehensive Road Maintenance Agreement, and a Development Agreement may be required for a 1041 E-OGLA Permit. Following the submittal of a 1041 E-OGLA Permit application, the RMA shall be prepared by the jurisdiction managing the road. The applicant shall provide an executed RMA to the City of Evans Community Development Department and the OEM. If the RMA is to be issued by the Weld City Department of Public Works, a Cash in Lieu one-time payment may be considered as an alternative to the RMA.
4. A Drainage Report is required for a 1041 E-OGLA Permit. At the time of application submittal, at minimum, a preliminary drainage report shall be provided for review. Prior to applying for a Grading Permit, a final drainage report stamped and signed by a Professional Engineer registered in the State of Colorado is required to be submitted for final approval to the City of Evans Community Development Director.
5. If the Oil and Gas Location is located within a Special Flood Hazard Area identified by maps officially adopted by the City of Evans, a City of Evans Flood Hazard Development Permit (FHDP) is required for a 1041 E-OGLA Permit.
6. A Grading Permit is required prior to construction of any Oil and Gas Location greater than one (1) acre. This permit is issued by the City of Evans Engineering Department.
7. If applicable, Building Permit(s) issued by the City of Evans Community Development Department.
8. If applicable, Right-of-Way (ROW) Permit(s), issued by the City of Evans Engineering Department are required for any work occurring within City ROW. No work within City ROW shall occur without such ROW Permits being issued.
9. If applicable, a Special Transport permit shall be obtained from either Weld County or the City of Evans. No vehicles associated with the 1041 E-OGLA Permit may exceed legal per axle weight limits and/or legal size limits as set forth in Article XV of Chapter 8 of the Weld County, unless Special Transport permits have been applied for and granted by the City Department of Public Works.

Additional information may be required by the either the City Community Development Director or the OGED Director, resulting from consultation with referral agencies, and/or the public.

18.12.420. Financial assurance requirements.

At time of Application submittal, an Operator shall provide Financial Assurance to the City in the form of a surety bond or other collateral acceptable to the Community Development Director and the City Attorney in the amount set forth below to protect Surface Owners who are not parties to a lease, SUA or other relevant agreement with the Operator from unreasonable crop loss or land damage caused by Oil and Gas Operations. Financial Assurance for Surface Owner protection shall not be required for operations conducted on state lands when a bond has been filed with the State Board of Land Commissioners. The Financial Assurance required by this Section shall be in the amount of five thousand dollars (\$5,000) per Well. In lieu of such individual amounts, Operators may submit blanket Financial Assurance in the amount of twenty-five thousand dollars (\$25,000). Any

request for relief pursuant to such Financial Assurance must be granted by the City Council upon receipt of a written request from the Surface Owner, which may be submitted to the Community Development Director at any time. Corrective or remedial action performed by the Operator may be considered by the Community Development Director before and as part of any order to execute on the Financial Assurance provided pursuant to this Section. The Financial Assurance provided pursuant to this Section is not intended to limit any monetary award for unreasonable crop loss or land damage that cannot be remediated or corrected. Financial Assurance submitted to the Community Development Director shall be held for safekeeping by the Clerk to the City Council. The Community Development Director may release the Financial Assurance upon satisfaction that risk of loss to the Surface Owner has been eliminated.

18.12.430. Review of 1041 E-OGLA Permit application.

The Community Development Director and OGED Director shall review the 1041 E-OGLA Permit Application to determine if it is complete. Such review shall occur within seven (7) days of the filing of the Application. Upon completeness determination, the OGED Director shall:

- A. Prepare legal notice for the hearing to be published in the newspaper designated by the City Council for publication of notices. The date of publication shall be at least thirty-seven (37) days prior to the date of hearing. The mailed and published notice shall inform the reader that he or she may apply for intervention in the manner set forth in this Chapter below.
- B. Send notice of a hearing for the 1041 E-OGLA Permit Application before the Hearing Officer to the Surface Owner; to property owner(s) whose property boundaries are located within two thousand (2,000) feet or less of the Oil and Gas Location; to the School Governing Body of any School or Child Care Center whose properties or jurisdictional boundaries are located within two thousand (2,000) feet or less from the Oil and Gas Location. Such notification shall be sent First-Class Mail by OGED at least thirty-seven (37) days prior to the date of hearing. The mailed notice shall inform the recipient that they may apply for intervention in the manner set forth in this Chapter.
- C. Refer the Application to the following agencies for review and comment. The agencies named shall respond within twenty-eight (28) days from the mailing of the application by the OGED. The failure of any agency to respond within twenty-eight (28) days shall be deemed to be a favorable response to OGED and the City. The referral shall state that the OGED Director and City will conduct a formal consultation with the referral agency during the twenty-eight (28) day referral period if requested by the referral agency. Reviews and comments solicited by the OGED and City are intended to provide both with information about the proposed Oil and Gas Location. The reviews and comments submitted by a referral agency are recommendations to the 1041 W-OGLA Hearing Officer:
 1. The LGD, Planning Commission, or governing body of any Local Government whose boundaries are within two thousand (2,000) feet of the Oil and Gas Location, as determined by the Weld County Assessor's records at the time of notice.
 2. The Weld County Department of Public Health and Environment.
 3. The Weld County Department of Public Works.
 4. The Weld County Department of Planning Services
 5. The CPW.
 6. The COGCC.
 7. The CDPHE.
 8. The appropriate school district(s).
 9. The appropriate fire district(s).

10. Any irrigation ditch company with irrigation structures of record that are within the 1041 E-OGLA Zone.
 11. To any other agencies or individuals to whom the City of Evans Community Development Director and OGED Director deems a referral necessary.
- D. OGED and City of Evans will collaborate to prepare staff comments addressing all aspects of the Application, its conformance with the Evans Municipal Code in effect at the time of filing of the Application, orderly Land Use Community Development practices, comments received from agencies to which the proposal was referred, and the standards contained in this Chapter. Such comments shall be provided to the Hearing Officer for consideration as evidence in the hearing.
- E. Charge a reasonable fee that covers costs incurred by the City of Evans for review of the Application, holding the appropriate hearing, and performing any necessary administrative tasks associated with the issuance of the 1041 E-OGLA Permit. All new Applications shall adhere to the requirements contained in this Chapter and will be assessed a new processing fee.

Any Application deemed incomplete by the Community Development Director and OGED shall be re-submitted within ninety (90) days for completeness determination. Any Application remaining incomplete beyond ninety (90) days will be automatically withdrawn.

18.12.450. 1041 E-OGLA Hearing.

- A. *1041 E-OGLA Hearing Participation.* The Applicant and any person or entity who has been granted intervention by the Hearing Officer shall have the right to participate formally in the 1041 E-OGLA Hearing. The process for seeking intervention is as follows:
1. Application for Intervention must be received by the Hearing Officer twenty (20) days prior to the 1041 E-OGLA Hearing. Application for Intervention must be on the form provided on the OGED website. Persons who have standing to participate are limited to those who have received notice of the 1041 E-OGLA Hearing by First-Class Mail or who have demonstrated they would be directly, adversely and significantly affected or aggrieved by the granting of the 1041 E-OGLA Permit. Application for Intervention must include the following:
 - a. The docket number and date of the 1041 E-OGLA Hearing;
 - b. Legal address of the person applying for intervention;
 - c. A general statement of the factual or legal basis for the protest or intervention;
 - e. A description of the intended presentation including a list of proposed witnesses; and
 - f. An estimate of the time required to present the protest or intervention.
 2. Applications for Intervention shall be granted or denied by the Hearing Officer within ten (10) days of their receipt. Such decision shall be communicated to the applicant for intervention in writing by the Hearing Officer.
 3. Any written comment provided by a person who is not granted intervention, or by any other member of the public, will be included in the 1041 E-OGLA Hearing record, to be considered by the Hearing Officer as evidence and given such weight as the Hearing Officer believes is appropriate.
- B. *Conduct of 1041 E-OGLA Hearing.*
1. 1041 E-OGLA Hearings shall be recorded, and a list of attendees shall be kept
 2. Participation by the parties and/or witnesses by telephone or other electronic means shall be at the discretion of the Hearing Officer.

3. The Hearing Officer shall control the evidence taken during the hearing in a manner best suited to fully and fairly develop the relevant evidence, safeguard the rights of all parties, and ascertain the substantive rights of the parties based on the merits of the issues(s) to be decided.
 4. 1041 E-OGLA hearings will be docketed to occur on a weekly basis on days to be determined by the Hearing Officer. Complete Applications whose notice requirements have been met shall be scheduled for hearing on the next available weekly docket.
- C. *Decision of the 1041 E-OGLA Hearing Officer.* Upon the conclusion of the 1041 E-OGLA Hearing, the Hearing Officer shall:
1. Grant the 1041 E-OGLA Permit if they determine that sufficient evidence exists in the record that the standards set forth in below will be met and that the proper Site Analysis has been performed by the Applicant, or
 2. Continue the 1041 E-OGLA hearing if they determine that insufficient evidence exists in the record and additional information is required in order to make a determination, upon staff recommendation, or at the Applicant's request, or
 3. Deny the 1041 E-OGLA Permit if they determine that insufficient evidence exists in the record or that a proper Site Analysis has not been performed by the Applicant. If a 1041 E-OGLA Permit is denied, the Applicant may apply for the same parcel only if substantial changes have been made to the Application from the original submittal.
 4. Inform the participants of their decision. The decision of the Hearing Officer shall be clearly set forth in the order issued by the Hearing Officer. The addition, deletion or modification of any conditions of approval shall be clearly identified in the order.
 5. If the Hearing Officer grants approval of the 1041 E-OGLA Permit, the Applicant shall collaborate with the Community Development Director and obtain approval of a Development Agreement. Refer to the Section below on Recording of the 1041 E-OGLA Permit and Vested Property Rights.
 6. Inform the participants that such decision may be appealed pursuant to the appeal procedures set forth in this Chapter.
- D. *Motion for reconsideration.* A motion for reconsideration may be considered by the Hearing Officer in cases where a 1041 E-OGLA Permit has been denied. Such motion must be filed no later than ten (10) days after the Applicant has received notice of the denial. A motion for reconsideration must state, with sufficient clarity, the specific reason(s) the Applicant believes the denial was the incorrect decision.
- E. *Right to appeal.* The appellant must file a written notice with the City and the OGED Director within ten (10) days of receiving the Hearing Officer's final order. The notice of appeal must specifically state what part of the decision the appellant believes the Hearing Officer either misinterpreted the facts presented in the Application and/or in the 1041 E-OGLA Hearing, or misapplied the regulations set forth in this Chapter. The notice shall not exceed five (5) pages in length. The OGED Director may submit a memorandum brief but must do so within ten (10) working days of receiving the notice of appeal. Any such memorandum brief shall not exceed five (5) pages in length.
- F. *Review of appeal and decision.* The OGED Director shall transmit the Hearing Officer's order, the notice of appeal and any memorandum brief to the City Council for review within twenty-one (21) days of receiving the notice of appeal. The City Council may affirm the Hearing Officer's order, modify it in whole or in part, or remand the matter to the Hearing Officer for further fact-finding. A modification may only be made if, based upon the Hearing Officer's findings of fact, the order clearly shows the Hearing Officer either misinterpreted the facts presented in the Application and/or in the 1041 E-OGLA Hearing, or misapplied the regulations set forth in this Chapter. The City Council may review the entire 1041 E-OGLA Hearing record upon a majority vote of the City Council. The City Council shall transmit a written decision on the appeal to the OGED Director within ten (10) working days after receiving the notice of appeal and other documents allowed herein. The

OGED Director shall thereafter communicate the decision to the Applicant and the Hearing Officer within five (5) working days of receiving the Council's decision.

18.12.460. Recording of the 1041 E-OGLA Permit, and Vested Property Rights.

Following the 1041 E-OGLA Hearing, if the Hearing Officer grants approval for the 1041 E-OGLA Permit, the following shall occur:

- A. The Hearing Officer shall refer the Applicant to the Community Development Director. The Community Development Director will provide direction to the Applicant on completing the Development Agreement. The Applicant will be required to provide warranty in a form acceptable to the City for public improvements and some on-site improvements. Once the Development Agreement is completed, the Community Development Director will present the Development Agreement to City Council for consideration. Upon approval of the Development Agreement, City Council at the same meeting shall adopt the 1041 E-OGLA Permit determination of the Hearing Officer.
- B. The Community Development Director shall record the final order and the Development Agreement with the Weld County Clerk and Recorder.
- C. Pursuant to Section 24-68-101(1)(a), C.R.S., with the intent to ensure reasonable certainty, stability, and fairness in the Land Use Community Development process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of Land Use Community Development, the City Council declares and orders that an approved 1041 E-OGLA Permit is an approved site specific development plan as that term is defined in this Title and in Section 24-68-102(4)(a), C.R.S. Therefore, an approved 1041 E-OGLA Permit is a vested property right, as defined in this Chapter, upon the completion of the notification requirements set forth in this Title. Once noticed pursuant to the requirements of this Title, the approved 1041 E-OGLA Permit confers upon the Operator the right to undertake and complete the exploration and production of oil and gas in the City of Evans under the terms and conditions set forth therein, pursuant to Section 24-68-103(1)(c), C.R.S.
- D. After the final order is recorded with the Weld County Clerk and Recorder, the Community Development Director shall forward a copy of the recorded document to OGED Director and the COGCC.

18.12.470. Compliance with 1041 E-OGLA Permit conditions of approval and Development Standards.

An Applicant for a 1041 E-OGLA Permit shall comply with the conditions of approval and Development Standards detailed in the 1041 E-OGLA Permit and in this Chapter. Noncompliance with the conditions of approval and Development Standards may be reason for revocation of the 1041 E-OGLA Permit by the City of Evans and the Hearing Officer.

Enforcement actions by the City of Evans and the OGED Director shall be according to the following procedure:

- A. *Enforcement of Conditions of Approval.* The Hearing Officer shall, after hearing and upon issuing a preliminary order granting the 1041 E-OGLA Permit, schedule a return date when the Operator shall present evidence to the Hearing Officer that all "Prior to Recording" conditions of approval have been satisfied. Upon providing such evidence the Hearing Officer shall issue a final order granting the 1041 E-OGLA Permit. If no "Prior to Recording" conditions of approval exist, the Hearing Officer shall issue a final order granting the 1041 E-OGLA Permit and no return date shall be necessary. Should at any time the Operator be found to be out of compliance with any remaining condition of approval the Community Development Director and the OGED Director may set a suspension or revocation hearing before the Hearing Officer pursuant to the provisions of this Chapter, below.

- B. *Enforcement of Development Standards.* The enforcement of the standards (referred herein as “Development Standards”) stated in the 1041 E-OGLA Permit and/or in this Chapter shall be conducted by the OGED Director in the following manner, unless otherwise stipulated:
1. Upon receiving a complaint from any member of the public or the filing of an inspection report by an OGED inspector, alleging a violation of Development Standards stated in the 1041 E-OGLA Permit and/or in this Chapter the OGED Director shall notify the Operator of the complaint or adverse inspection report and require Operator investigation and response within 24 hours. Within the OGED Director's required timeframe, the Operator shall correct the violation and inform the OGED Director of such correction. If the Operator is unable to achieve the required correction within the stated timeframe, the Operator shall inform the OGED Director of the circumstances and the anticipated date of correction, and the OGED Director may modify the stated timeframe.
 2. If the OGED Director has probable cause to believe the violation persists, he or she shall notify the Operator in writing of the violation, present a demand for correction and provide a date upon which the violation must be corrected. The Operator shall correct the violation within the stated timeframe and notify the OGED Director in writing of such correction.
 3. If the OGED Director does not receive a written response from the Operator within the stated timeframe saying the violation has been corrected, or if upon OGED inspection there is probable cause to believe the violation persists, the OGED Director shall set a suspension or revocation hearing before the Hearing Officer pursuant to the provisions of this Chapter.

18.12.480. Required notification.

A. *Notifications to the OGED Director and Community Development Director.*

The following notifications sent to the City and OGED shall certify certain conditions of approval or Development Standards, which were specified as part of the approved 1041 E-OGLA Permit, have been completed. The notification shall list the condition of approval or Development Standard completed, along with any relevant permit number or identification number assigned.

1. *Prior to construction notification.* The Operator is required to provide written notice to the OGED Director and Community Development Director via the 1041 E-OGLA Sundry Form two (2) weeks prior to beginning the Construction Phase of the Oil and Gas Location. This written notice satisfies the notification requirements of the Road Maintenance Agreement, City Development Agreement, the Emergency Action Plan and any other agreements or permits needed to have in place for the site-specific development plan.
2. *Drilling and Completions notifications.* The Operator is required to provide notice to the Community Development Director and the OGED Director for the following:
 - a. *Spud notice.* At least 48 hours prior to Spud, the Operator shall provide written notice of such activity to the Community Development Director and the OGED Director via the 1041 E-OGLA Sundry Form. This notification satisfies the requirements outlined in the Emergency Action Plan.
 - b. *Completions notice.* At least one (1) week prior to commencement of Completions activity on an Oil and Gas Location, the Operator shall provide written notice of such activity to the Community Development Director and the OGED Director via the 1041 E-OGLA Sundry Form. This notification will meet the requirements outlined in the Emergency Action Plan.
3. *Turn-in-Line notification.* The Operator is required to provide written notice to the Community Development Director and the OGED Director via the 1041 E-OGLA Sundry Form within two (2) weeks of a Well or facility being turned to sales. This written notice shall include an electronic GIS map (shapefile or .kmz) showing the off-location Flowlines. This written notification satisfies the notification

requirements of the Road Maintenance Agreement, City Development Agreement, the Emergency Action Plan and any other agreements or permits needed to have in place for the site-specific development plan.

4. *Interim Reclamation notice.* The Operator is required to provide written notice to the Community Development Director and the OGED Director via the 1041 Sundry Form pursuant to the requirements of this Chapter, documenting the success of the interim Reclamation.
 5. *Final abandonment notice.* The Operator is required to provide written notice to the Community Development Director and the OEGD Director via the 1041 E-OGLA Sundry Form at least one (1) week prior to plugging the final Well on a Location or final decommissioning of an Oil and Gas Facility. This notice will begin the final Reclamation requirements outlined in this Chapter.
- B. *Notifications to the Surface Owner.* With respect to the notices listed in this Section, it shall be the responsibility of the notified Surface Owner to give notice of the proposed operation to the tenant farmer, lessee, or other party that may own or have an interest in any crops or surface improvements that could be affected by such proposed operation. Unless the following is otherwise addressed in the SUA or Memorandum of SUA, or the Surface owner has signed a written waiver of the notifications required in this Section, the following notices to the Surface Owner shall occur:
1. *Notification prior to construction.* The Applicant is required to provide notice to the Surface Owner in writing not less than thirty (30) days in advance of commencement of operations with heavy equipment prior to the beginning of drilling of a well. This written notice shall provide the following:
 - a. The Operator's name and contact information for the Operator or its agent; and
 - b. A site diagram or plat of the Oil and Gas Location and any associated roads; and
 - c. The date operations with heavy equipment are expected to commence; and
 - d. The contact information for OGED and the Community Development Director.

This notice shall be delivered by hand; certified mail, return-receipt requested; or by other delivery service with receipt confirmation. Electronic mail may be used if the Surface Owner has approved such use in writing.
 2. *Subsequent Well operation notification.* An Operator shall provide to the Surface Owner at least ten (10) days advance notice of subsequent Well operations with heavy equipment that will materially impact surface areas beyond the existing access road or Well Site, such as recompleting or stimulating the Well.
 3. *Final Reclamation notification.* Not less than thirty (30) days before any final Reclamation operations are to take place, the Operator shall notify the Surface Owner. Final Reclamation operations shall mean those Reclamation operations to be undertaken when a Well is to be Plugged and Abandoned or when Production Facilities are to be permanently removed. In preparing for final Reclamation and Plugging and Abandonment, the Operator shall use its best efforts to consult in good faith with the affected Surface Owner (or the tenant when the Surface Owner has requested that such consultation be made with the tenant). Such good faith consultation shall allow the Surface Owner the opportunity to provide comments concerning preference for timing of such operations and all aspects of final Reclamation, including, but not limited to, the desired final Land Use and seed mix to be applied.
- Any of the notices required in this Chapter may be waived in writing by the Surface Owner provided that a waiver by a Surface Owner shall not prevent the Surface Owner or any successor-in-interest to the Surface Owner from rescinding that waiver if such rescission is in accordance with applicable law.
- C. *Notification to Building Unit owner(s).* At least thirty (30) days, but no more than ninety (90) days, before Oil and Gas Operations or construction commences, the Operator shall provide written notice (Notice of Operations) to all Building Unit owners within the 1041 E-OGLA Zone. Building Unit owners shall be re-

noticed if: it has been more than one (1) year since the previous notice or since drilling activity last occurred, or notice was not previously required.

1. Notice of Operations shall be delivered in writing, with receipt confirmation, to all Building Units within the 1041 E-OGLA Zone (as determined by Weld City Assessor's record at the time of notice).
2. The Notice of Operations must include:
 - a. A statement informing the Building Unit owner that the Operator intends to construct an Oil and Gas Location within two thousand (2,000) feet of their Building Unit;
 - b. The parcel number and legal description of the property on which the Oil and Gas Location is situated;
 - c. The location name, 1041 E-OGLA Permit number, and number of Wells to be drilled;
 - d. Approximate cross streets of the Oil and Gas Location;
 - e. The anticipated date (Month and Year) the construction or operations will commence; and
 - f. Both Operator, City of Evans and OGED contact information.
3. A Building Unit owner entitled to receive Notice of Operations may waive their right to be noticed, in writing, at any time. The Operator shall provide evidence of this waiver to Community Development Director and OGED, if requested.

18.12.490. Amendments, termination, or failure to commence use.

- A. Any amendments to an Oil and Gas Location which modify or expand the Facility or Location beyond what was originally permitted by the City of Evans or the COGCC shall be filed with the City of Evans via the OGED 1041 E-OGLA Sundry Form. The OGED Director will review the Sundry Form and determine if the request is minor or major, and if subsequent action is needed. Minor amendments may be administratively approved by the City of Evans and OGED Director, however additional BMPs may be required. Major amendments may require a new 1041 E-OGLA Permit Application and fee.
- B. Major amendments to an existing Oil and Gas Location may require the approval of a new 1041 E-OGLA Permit or a subsequent hearing before the Hearing Officer. "Major amendments" include, but are not limited to, the following: any surface disturbance at a previously undisturbed or fully reclaimed site; surface disturbance for purposes of permanently expanding an existing Oil and Gas Location beyond the originally disturbed area; the addition of one (1) or more Wells; amendments to a Final Order granted by the Hearing Officer, increases of equipment which change the character of the Facility or Location, and/or moving an existing or permitted Location.
- C. No Sundry Form request for amendment is required for refracs, recompletions, routine Well Site operations, normal repairs and maintenance of an existing Oil and Gas Facility, like kind replacement of equipment, setting Temporary equipment, surface disturbance at an existing Oil and Gas Location within the original disturbed area which does not have the effect of permanently expanding the Oil and Gas Facility or Oil and Gas Location, and repairs or maintenance of an Oil and Gas Facility required by a city, county, state or federal compliance order.
- C. The Construction Phase authorized by an approved 1041 E-OGLA Permit shall be completed within three (3) years from the date of publication announcing the approval of the 1041 E-OGLA Permit, or the approval shall terminate. However, if the Construction Phase has been commenced within the three (3) years, but not completed, an additional three (3) years shall be granted by the OGED Director, via a 1041 E-OGLA Sundry Form, but the 1041 E-OGLA Permit shall then be subject to any new rules amended into this Chapter since the approval of the original 1041 E-OGLA Permit.

18.12.500. Suspension and revocation procedures.

- A. If following the notice and timeframes called for in this Chapter above, the OGED Director determines that one (1) or more of the 1041 E-OGLA Permit Development Standards set forth in this Chapter have not been met, the OGED Director shall notify the Operator of the Oil and Gas Location of the failure to comply with the terms of the 1041 E-OGLA Permit and/or the Development Standards set forth in this Chapter. The notice will inform the Operator that a hearing has been scheduled before the Hearing Officer to determine if the 1041 E-OGLA Permit should be suspended or revoked. The Operator shall have the right to participate and present information at the hearing.
- B. The Hearing Officer shall hold a hearing to determine if the Operator of the Oil and Gas Location has failed to comply with the terms of the 1041 E-OGLA Permit and/or the regulations set forth in this Chapter. Upon such a finding, the Hearing Officer may suspend or revoke the 1041 E-OGLA Permit, and/or order the Operator to cease the use of the Oil and Gas Facility immediately. In lieu of suspension or revocation, the Hearing Officer may order the Operator to submit a compliance plan and set a timeframe for return to present evidence of compliance.
- C. The Operator may appeal the Hearing Officer's order to the City Council by following the appeal procedures in this Chapter.

18.12.510. Site inspection by OGED.

OGED staff may inspect, at any time, the Oil and Gas Locations subject to the regulations set forth in this this Chapter to determine if the Oil and Gas Location is in compliance.

18.12.520. Transferability of 1041 E-OGLA Permits.

Once issued, 1041 E-OGLA Permits are transferable to a new Operator. The new Operator is subject to all terms and conditions of the 1041 E-OGLA Permit and shall be considered the Responsible Party. Within sixty (60) days of transfer, the new Operator shall notify the OGED Director and Community Development Director, via Sundry Form, and the Surface Owner in writing of the name, business address, and other contact information for the new Operator.

18.12.600 Weld Mineral Resource (Oil and Gas) Area Development Standards

The following Development Standards (referred to herein as "Development Standards") apply to all Oil and Gas Locations within the Weld Mineral Resource (Oil and Gas) Area having received approval of a 1041 E-OGLA Permit (or an amendment thereto as required by this Chapter).

18.12.610. Weed control.

All disturbed areas shall be kept free of Weeds. Weed control measures shall be conducted in consultation with the Surface Owner, City of Evans and Weld County Weed Management Specialist. The OGED Director and/or the 1041 E-OGLA Hearing Officer may require the submittal of and compliance with a weed control plan as part of 1041 E-OGLA Permit approval to provide impact mitigation, or pursuant to any enforcement action against an Operator.

18.12.620. Lighting.

As part of the application for a 1041 E-OGLA Permit, an Operator shall describe plans for light mitigation that demonstrates their capability to meet the maximum permissible lighting levels as described in this Section.

As part of the Application, an Operator shall submit a lighting plan for the Construction Phase and, if applicable, the Production Phase of the Location. The lighting plan shall demonstrate compliance with the maximum permissible lighting levels, as described in this Chapter. The lighting plan shall describe mitigation measures to be used at the Location to comply with the lighting standards outlined in this Section for both Construction and Production Phases.

Taking into consideration the surrounding Land Uses, the number and proximity to Building Units, DOAAs, and/or High Priority Habitats, OGED is responsible for recommending an appropriate Lighting Zone (LZ), to be considered by the Evans Community Development Director, the OEGD Director and/or the Hearing Officer as part of the 1041 E-OGLA Permit.

- A. *Lighting Zones (LZ)*. LZ3 and 4 are not permissible in Evans.

Table 620 A.1

LZ	Recommended Uses or Areas	LZ Considerations
LZ-0	Lighting Zone 0 should be applied to areas in which permanent lighting is not expected and when used, is limited in the amount of lighting and the period of operation. LZ-0 typically includes undeveloped areas of open space, wilderness parks and preserves, areas near astronomical observatories, or any other area where the protection of a dark environment is critical. Special review should be required for any permanent lighting in this zone.	Recommended default zone for wilderness areas and undeveloped areas.
LZ-1	Lighting Zone 1 pertains to areas that desire low ambient lighting levels. These typically include single-family and multi-family residential communities, rural town centers, business parks, and other commercial or industrial/ storage areas typically with limited nighttime activity. May also	Recommended default zone for rural and low-density residential areas. Includes residential single or two family; agricultural zone districts; rural residential zone districts; business parks; open space

	include the developed areas in parks and other natural settings.	including preserves in developed areas.
LZ-2	Lighting Zone 2 pertains to areas with moderate ambient lighting levels. These typically include multifamily residential Uses, institutional residential Uses, schools, churches, hospitals, hotels/motels, commercial and/or businesses areas with evening activities embedded in predominately residential areas, neighborhood serving recreational and playing fields and/or mixed-use development with a predominance of residential uses. Can be used to accommodate a district of outdoor sales or industry in an area otherwise zoned LZ-1.	Recommended default zone for light commercial business districts and high density or mixed-use residential districts. Includes neighborhood business districts; churches, schools and neighborhood recreation facilities; and light industrial zoning with modest nighttime uses or lighting requirements.
LZ-3	Lighting Zone 3 pertains to areas with moderately high lighting levels. These typically include commercial corridors, high intensity suburban commercial areas, town centers, mixed use areas, industrial Uses and shipping and rail yards with high nighttime activity, high use recreational and playing fields, regional shopping malls, car dealerships, gas stations, and other nighttime active exterior retail areas.	Recommended default zone for large city business districts. Includes business zone districts; commercial mixed use; and heavy industrial and/or manufacturing zone districts.
LZ-4	Lighting zone 4 pertains to areas of very high ambient lighting levels. LZ-4 should only be used for special cases and is not appropriate for most cities. LZ-4 may be used for extremely unusual installations such as high-density entertainment districts, and heavy industrial Uses.	Not a default zone. Includes high intensity business or industrial zone districts.

Source: Illuminating Engineering Society, International Dark-Sky Association, Joint IDA-IES Model Lighting Ordinance (MLO) with User's Guide, June 15, 2011.

- B. *Construction Phase base allowance for lighting.* The following lighting limits are the standards for the LZ in which the Oil and Gas Location is situated:

Table 620 B.1

Construction Phase Base Allowance for Lighting at Oil and Gas Locations				
LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
For all LZs, up to 12.0 lumens per SF of hardscape				

Source: Illuminating Engineering Society, International Dark-Sky Association, Joint IDA-IES Model Lighting Ordinance (MLO) with User's Guide, June 15, 2011.

The allowable base lumens for an Oil and Gas Location are calculated using the Lighting Zone as shown in the table above, and the total hardscape. The Construction Phase hardscape shall equal actual acres up to twelve (12) acres.

Operators shall ensure that lighting at the Oil and Gas Location does not exceed the assigned allowable base lumens.

During the Construction Phase or during operations involving Pipeline or Gas Facility installation or maintenance, use of a Workover rig, or stimulation, Operators must comply with the maximum allowable lumens per SF as shown in the table above.

- C. *Production Phase base allowance for lighting.* The following lighting limits are the standards for the LZ in which the Oil and Gas Location is situated (or as allowed by the OGED Director and/or the Hearing Officer):

Table 620 C.1

Production Phase Base Allowance for Lighting at Oil and Gas Locations				
LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
0.5 lumens per SF of hardscape	1.25 lumens per SF of hardscape	2.5 lumens per SF of hardscape	5.0 lumens per SF of hardscape	7.5 lumens per SF of hardscape

Source: Illuminating Engineering Society, International Dark-Sky Association, Joint IDA-IES Model Lighting Ordinance (MLO) with User's Guide, June 15, 2011.

The allowable base lumens for an Oil and Gas Location are calculated using the Lighting Zone as shown in the Table 620 A.1, and the total hardscape. In the City of Evans, the Production Phase hardscape shall equal actual acres of the Oil and Gas Location after Interim Reclamation.

Operators shall ensure that lighting at the Oil and Gas Location does not exceed the assigned allowable base lumens.

1. During the Production Phase, unless another LZ is allowed by the OGED Director and/or the 1041 E-OGLA Hearing Officer, Oil and Gas Locations within the City of Evans shall comply with the lighting standards of LZ-0 or LZ-1, depending upon the number of and proximity to Building Units, DOAAs, and/or High Priority Habitats. Unless another LZ is allowed by the OGED Director and/or the Hearing Officer, Oil and Gas Locations within Evans, shall comply with the lighting standards of LZ-0, depending upon the number of and proximity to Building Units, DOAAs, and/or High Priority Habitats.
 - a. The OGED Director and/or the Hearing Officer may require another LZ than what is allowed for the Community Development Area in which the Oil and Gas Location is situated, depending upon which LZ best fits the land uses and circumstances surrounding the Oil and Gas Location.
 - b. If permanent lighting is proposed to be utilized during the Production Phase, the Operator shall provide a photometric plan with the application to be considered by the OGED Director and the Hearing Officer.
 - c. The photometric plan will demonstrate compliance with the lighting levels outlined in Table 620 B.1 and in addition, the plan will demonstrate how permanent lighting will utilize BMPs and lighting technology to limit the amount of light leaving the Location.
- D. Lighting plan requirements. Operators shall provide a lighting plan with the Application to be considered by the OGED Director and the Hearing Officer.
1. The lighting plan will demonstrate compliance with the Construction Phase lighting levels outlined in Table 620 B.1, and the Production Phase lighting levels outlined in Table 620 C.1, if applicable. The Plan will demonstrate how the Applicant will utilize BMPs and lighting technology to limit the amount of lighting leaving the Location. The plan will include the following information, along with any other information OGED may request:

- a. A site plan showing lighting fixture locations as well as calculation points detailing the number of footcandles a specific point on the site plan has.
- b. Lighting schedule, detailing the different lighting fixtures which are proposed.
- c. Specification sheets for the proposed lighting fixtures.
- d. Photometric plan shaded view.

E. Lighting standards. Operators shall adhere to the following lighting standards at all Oil and Gas Locations during all phases of Oil and Gas Operations. Nothing in this section shall prohibit the use of indicator beacons or similar lighting that is designed to alert personnel to emergencies or abnormal operating conditions occurring on the Oil and Gas Location.

1. Operators shall direct site lighting downward and inward, such that no light shines above a horizontal plane passing through the center point of the light source, with lights hidden by the sound wall if one is present.
2. Operators will place bulbs within fixtures that obscure, block, or diffuse the light to reduce light intensity outside the boundaries of the Oil and Gas Location.
3. Offsite impacts from lighting shall be reduced or mitigation to the greatest extent practicable using BMPs including, but not limited to:
 - a. Minimizing lighting when not needed using timers or motion sensors ("use only the lights you need");
 - b. Using cut-off or full cut-off lighting;
 - c. Using lighting colors that reduce light intensity; and
 - d. Using low-glare and no-glare lighting.
4. Utilization of lighting standards including but not limited to those listed above shall ensure Location lighting does not negatively impact the health, safety and welfare of the City of Evans' citizens, environment, and wildlife within the 1041 E-OGLA Zone.

18.12.630. Visual impact mitigation.

Production Facilities, regardless of construction date, observable from any public highway shall be painted with uniform, non-contrasting, non-reflective color tones (similar to the Munsell Soil Color Coding System), and with colors matched to, but slightly darker than, the surrounding landscape.

Portable toilets for use on the Oil and Gas Location shall not be visible from adjacent properties or public rights-of-way. Sound walls or fencing may be used as screening.

18.12.640. Fugitive dust.

Operators shall employ practices for control of fugitive dust caused by their operations on the Oil and Gas Location and private access roads. Such practices shall include, but are not limited to, the use of speed restrictions; regular road maintenance; restriction of construction activity during high-wind days; silica dust controls when handling sand used in Hydraulic Fracturing operations; and the application of dust suppression controls limited to magnesium chloride and Fresh Water.

The submittal of and compliance with a dust mitigation plan detailing additional management practices such as road surfacing, construction of wind breaks and barriers, soil stockpile stabilization or automation of Wells to reduce truck traffic may be required by the OGED Director and/or the 1041 E-OGLA Hearing Officer as part of the 1041 E-OGLA Permit approval to provide impact mitigation, or pursuant to a fugitive dust enforcement action

against an Operator. Should the Operator choose to provide a cash in lieu payment pursuant to the provisions of of Weld County, the Operator shall continue to be responsible for mitigating fugitive dust on City roads that are part of the haul route for the Oil and Gas Location. Dust mitigation will be covered in the Development Agreement with the City of Evans.

18.12.650. Odor.

Oil and Gas Operations shall comply with the AQCC Regulation No. 2 Odor Emission (5 C.C.R. 1001-4) Subsections A.I.A., and A.II—A.V, which standards may be enforced by the OGED Director following the enforcement procedures set forth in this Chapter. The OGED Director and/or the 1041 E-OGLA Hearing Officer may require the submittal of and compliance with an odor mitigation plan as part of the 1041 E-OGLA Permit approval to provide impact mitigation, or pursuant to any enforcement action against an Operator.

18.12.660. Site security and signage.

- A. The Oil and Gas Facility shall be designed and operated in a manner that is protective of public health, safety and welfare during all phases of operation by preventing public access, unauthorized vehicular traffic, and illegal dumping of wastes.
 1. Appropriate measures shall be implemented to prevent access to the Oil and Gas Facilities by unauthorized persons, wildlife or domestic animals.
 2. Fencing may be required at the discretion of the OGED Director and/or included as a requirement in the Hearing Officer's final order. When used, fencing shall be appropriate to the siting of the proposed Oil and Gas Location.
- B. The Operator shall, concurrent with the Surface Owner notice, post a Temporary sign not less than two-feet by two-feet at the intersection of the lease road and the public road providing access to the well Site, with the name of the proposed Well, the legal location thereof, the assigned address, and the estimated date of commencement. Such sign shall be maintained until Completions operations at the Well are concluded.
- C. Within sixty (60) days after beginning construction of an Oil and Gas Location, a permanent sign shall be required.
 1. The sign shall be placed at the intersection of the lease access road with a public road but shall not be placed in the road right-of-way. Such sign, which shall be no less than three (3) square feet and no more than six (6) square feet, shall provide: the name of the operator; a phone number at which the operator can be reached at all times; a phone number for local emergency services (911 where available); the Oil and Gas Location name; the legal location, including the quarter-quarter section; and the assigned address.
 2. In lieu of providing the legal location on the permanent sign, it may be stenciled on a tank in characters visible from one hundred (100) feet.
 3. In lieu of posting a Temporary sign per this Chapter, the permanent sign may be installed.

18.12.670. Well completions.

Oil and Gas Well Completions shall be conducted in compliance with the Reduced Emissions or "Green" Completion requirements of CDPHE, AQCC, Regulation 7 and US EPA, New Source Performance Standards, Subparts OOOO and OOOOa.

18.12.670. Noise.

As part of the application for a 1041 E-OGLA Permit, an Operator shall describe noise mitigation measures that demonstrates their capability to meet the maximum permissible noise levels in the City of Evans as described in Chapter 8.25.

18.12.680. Pollution.

Operators shall take precautions to minimize adverse environmental impacts to air, water, soil, or biological resources to the extent necessary to protect public health, safety and welfare, including the environment and Wildlife Resources.

18.12.690. Leak detection and repair (LDAR).

Leak Detection and Repair (LDAR) shall be conducted in compliance with all state and federal regulations.

18.12.700. Management of waste.

- A. *E&P Waste.* Operators shall ensure that E&P Waste is properly stored, handled, transported, treated, recycled, and/or disposed of in accordance with federal, state and Weld City regulations. Land treatment with oily waste on Oil and Gas Locations permitted through the 1041 E-OGLA process is prohibited.
- B. *Non-E&P Waste.* Operators shall ensure that non-E&P Wastes are properly stored, handled, transported, treated, recycled, and/or disposed of in accordance with state and federal regulations. Oil and Gas Locations shall be kept free of trash, debris, scrap and/or discarded materials connected with operations on the property.

18.12.710. Storage tank control requirements.

Crude oil, condensate and Produced Water storage Tanks shall be installed and operated in compliance with all state and federal regulations.

18.12.720. Pits—General and special rules.

- A. Drilling Pits, Multi-Well Pits, Reserve Pits, and Special Purpose Pits, (as defined in this Chapter) used for the exploration and production of oil and gas are prohibited. Operators are required to use closed-loop systems while drilling on all Oil and Gas Locations.
- B. Emergency Pits, as defined in this Chapter, may be allowed if constructed and used only in the initial phase of emergency response. The Operator shall notify the OGED Director within 24 hours of the construction of an Emergency Pit. Once the emergency is controlled, the Emergency Pit shall be reclaimed and cleared of all hydrocarbons, Produced Water or any other substance that may be contained within.
- C. Freshwater Pits, as defined in this Chapter, shall be permitted in accordance with applicable state and federal regulations.
- D. Production Pits, as defined in this Chapter, may be permitted in accordance with applicable state and federal regulations, and if granted a variance by the OGED Director pursuant to the rule set forth in this Chapter.

18.12.730. Spills and releases.

Operators shall maintain a Spill prevention plan for each Oil and Gas Location with BMPs to adequately protect any and all critical receptors. The OGED Director and/or 1041 E-OGLA Hearing Officer may require the submittal of and compliance with a Spill prevention plan as part of the 1041 E-OGLA Permit approval to provide impact mitigation, or pursuant to any enforcement action against an Operator.

Operators shall notify the Weld City Office of Emergency Management of the occurrence of Spills and Releases, as required by the terms of the approved Weld City Emergency Action Plan.

18.12.740. Concentrations and sampling for soil and ground water.

Operators shall comply with applicable state and federal rules and regulations regarding concentrations and sampling for soil and ground water, if applicable. Results of such sampling shall be made available at the request of the OGED Director and/or Weld County Department of Public Health and Environment.

18.12.750. Venting and flaring natural gas.

Operators shall comply with applicable state and federal rules regarding venting and flaring of natural gas. Operators shall minimize venting and flaring to the greatest extent practicable.

18.12.760. Air permits.

Facilities and equipment which are sources of regulated air emissions shall be authorized in accordance with the Air Pollutant Emission Notice (APEN) and Stationary Source Permitting requirements of CDPHE, AQCC, Regulation 3.

18.12.770. Pneumatic pumps and controllers.

Operators are encouraged to install non-pneumatic devices or pneumatic devices that are operated using instrument air wherever feasible. Natural gas operated pneumatic devices shall be installed and operated in compliance with the requirements of CDPHE, AQCC, Regulation 7, Part D and US EPA, New Source Performance Standards, Subpart OOOO and Subpart OOOOa.

18.12.780. Setbacks.**A. General Requirements.**

1. At the time of initial drilling, a Well shall be located not less than two hundred (200) feet from a surface property line, buildings, the current or future Right-of-Way line of public roads, major above ground utility lines, or railroads.
2. The Hearing Officer may grant a variance from the surface property line setback if a waiver is obtained from the adjacent Surface Owner(s).
3. No portion of the Oil and Gas Facility shall be located within twenty (20) feet of the current or future public right-of-way.
4. No portion of the disturbed area of the Oil and Gas Location shall be within the current or future right-of-way of State, County, City or Municipal roads, or within recorded easements of utilities or railroads, unless written documentation allowing such disturbance is included in the Application.

- B. *Building Unit.* Oil and Gas Location shall be located a minimum of five hundred (500) feet from Building Units. For an exception from the Building Unit setback, the Operator may submit a waiver from each Building Unit owner within five hundred (500) feet of the proposed Oil and Gas Location to be approved by the Hearing Officer. Alternatively, the Hearing Officer may approve an exception by determining that potential locations outside the 500-foot setback are technically infeasible or economically impracticable and sufficient mitigation measures including, but not limited to, BMPs shall be employed to protect public health, safety and welfare.
- C. *High Occupancy Building Unit.* Oil and Gas Location shall be located a minimum of five hundred (500) feet from a High Occupancy Building Unit.
- D. *Designated Outside Activity Area ("DOAA").* Oil and Gas Locations shall be located a minimum of five hundred (500) feet from the boundary of a DOAA.
- E. *School Facility and Child Care Center.* Oil and Gas Location shall be located a minimum of five hundred (500) feet from the boundary of a School Facility or Child Care Center, unless the relevant School Governing Body agrees in writing to the location of the proposed Oil and Gas Location and the 1041 E-OGLA Hearing Officer determines that potential locations outside the applicable setback are technically infeasible or economically impracticable and sufficient mitigation measures are in place to protect public health, safety, and welfare. Such mitigation measures shall be a condition of approval of the 1041 E-OGLA Permit.
- F. *Existing Oil and Gas Locations.* Where the Oil and Gas Location is located less than the minimum applicable setback distance solely as a result of any Building Unit, High Occupancy Building Unit, School Facility, Child Care Center, or DOAA being constructed after the Oil and Gas Location was constructed, the Hearing Officer may approve an exception to the minimum setback distance when a Well or Production Facility is proposed to be added to an existing or approved Oil and Gas Location if the Hearing Officer determines alternative locations outside the applicable setback are technically or economically impracticable, and sufficient mitigation measures are in place to protect public health, safety, and welfare.
- G. The measurement for determining compliance with the minimum setback distance shall be the shortest distance between the disturbed area of the Oil and Gas Location and the nearest edge or corner of any Building Unit, High Occupancy Building Unit, or the nearest property boundary of a School Facility, Child Care Center or DOAA.
- H. Surface development pursuant to a SUA or Site-Specific Development Plan. A Surface Owner or Building Unit owner and mineral owner or mineral lessee may agree to locate future Building Units closer to existing or proposed Oil and Gas Locations than otherwise allowed pursuant to a valid SUA or Site-Specific Development Plan (as defined in Section 24-68-102(4)(a), C.R.S., that establishes vested property rights as defined in Section 24-68-103, C.R.S.) that expressly governs the location of Wells or Production Facilities on the surface estate.

18.12.790. Mitigation measures for setback variances.

The following requirements apply to Oil and Gas Locations that have been granted a variance from the designated setback distance from a Building Unit, High Occupancy Building Unit, School Facility, Child Care Center, or DOAA:

- A. In addition to the mitigation measures agreed to between the Operator and the persons or entities noticed pursuant to this Section, the following mitigation measures shall apply to each Oil and Gas Location that is granted a setback variance:
1. **Noise.** Noise levels shall comply with the noise standards found in Chapter 8.25 of the Municipal Code during all phases of operation, including but not limited to the Construction Phase and Production Phase.
 2. **Secondary Containment.** Berms shall be constructed of steel or other suitable material and shall be designed and installed to prevent leakage and resist degradation from erosion or routine

operation. Secondary containment areas shall be constructed with a synthetic or engineered liner that contains all tanks, primary containment vessels and Flowlines and is mechanically connected to the berm to prevent leakage.

3. Remote monitoring and automation. Wells and production facilities shall be equipped with remote monitoring and control capabilities and automated shut in measures to prevent gas venting during emission control system failures or other upset conditions.
4. Flaring and venting. Flaring and venting of gas shall be prohibited, except during upset or emergency conditions or as allowed by the COGCC and the OGED Director.
5. A site specific risk assessment shall be included as part of the Application, for consideration by the OGED Director and the Hearing Officer. The assessment shall be prepared by a qualified professional and shall identify any potential hazards, determine a path for hazard mitigation, increase public safety, and shall give site specific policies and procedures which demonstrate protection of the health, safety and welfare of the City's citizens, environment, and wildlife.

18.12.800. Safety requirements.

Operators shall comply with state and federal safety rules and regulations as applicable to all Oil and Gas Operations.

18.12.810. Floodplain and overlay district requirements.

An Operator shall comply with the Municipal Code if the proposed Oil and Gas Location is located within any Overlay District Area or a Special Flood Hazard Area identified by maps officially adopted by the City.

18.12.820. Stormwater management.

As part of the application for a 1041 E-OGLA Permit, an Operator shall provide proof of a valid stormwater discharge permit issued by CDPHE. The Operator shall submit a drainage report to comply with required Storm Drainage Criteria pursuant to the policies and specifications of the City of Evans. Additional requirements for Municipal Separate Storm Sewer System (MS4) areas may be applicable pursuant to the policies and specifications of the City of Evans.

The following standards apply only to the development of oil and gas exploration and production in the Evans Mineral Resource (Oil and Gas) Area. These standards shall be supported by calculations signed and stamped by a Colorado Licensed Professional Engineer and accepted by the Evans Engineering Department.

- A. *Oil and Gas Tank battery secondary containment.* When calculating the Oil and Gas Location imperviousness and pervious areas, secondary containment areas may be excluded from the total site imperviousness and pervious calculations provided that the secondary containment area is appropriately sized to hold the originally designed safety containment volumes plus the 100-year storm rainfall.
- B. *Detention pond storage volume.* In non-urbanizing areas during the Construction Phase, detention ponds shall be sized to store the stormwater runoff generated by the 1-hour, 100-year storm falling on the developed site and release of the detained water at the historic runoff rate of the 1-hour, 10-year storm falling on the undeveloped site or at five (5) cubic feet per second, whichever is greater. Historic is defined as an undeveloped site (before any development) with an assumed 2.0% imperviousness maximum. During the Production Phase or in urbanizing areas, detention ponds shall adhere to the standards, policies and specifications of the City of Evans.

- C. *Detention pond freeboard.* During the Construction Phase, less than one (1) foot of freeboard may be allowed on a case-by-case basis. This exception shall be supported by calculations signed and stamped by a Colorado Licensed Professional Engineer and accepted by the Evans Engineering Department. During the Production Phase, the detention pond shall adhere to standards, policies and specifications of the City of Evans.
- D. *Emergency spillway.* In order to prevent damage to publicly owned infrastructure (roads, roadside ditches) and adjoining privately owned lands and infrastructure, a cutoff wall is required on all privately maintained detention ponds and retention ponds. The cutoff wall permanently defines the emergency spillway opening. The emergency spillway elevation must be tied back into the top of the embankment using a maximum slope of 4:1. The cutoff wall must either be constructed of concrete or galvanized steel sheet pile. Concrete cutoff walls must adhere to standards, policies and specifications of the City of Evans. Steel sheet pile cutoff walls must be hot dipped galvanized steel of one-quarter (1/4) inches thickness or three (3) gauge and extend three (3) feet below the bottom of the pond. If steel sheet pile is proposed for the cutoff wall, the native soils must be tested for sulfate levels. If the sulfate levels are above 1.0%, the sheet pile shall be coated with a corrosion resistant epoxy.
- E. *Retention pond.* Retention facilities shall be allowed without a variance only during the Construction Phase. Retention facilities that are proposed for the Production Phase require the issuance of a variance requested by the Applicant and accepted by the Evans Engineering Department.

18.12.830. Storage of non-essential items.

All Oil and Gas Locations shall be kept free of commercial products, Chemicals, materials and other supplies not necessary for use on the Oil and Gas Location, and Junk and unused Commercial Vehicles as those terms are defined in this Title. The burning or burial of any such material and/or items on the Oil and Gas Location is prohibited.

18.12.840. Equipment anchoring requirements.

All equipment at Oil and Gas Locations in geological hazard areas and Floodplains shall be anchored. Anchors must be engineered to support the equipment and to resist flotation, collapse, lateral movement, or subsidence, and must comply with all requirements of any necessary geologic hazard recommendations and/or Flood Hazard Development Permit.

18.12.850. Protection of Wildlife Resources.

- A. The OGED Director, utilizing the referral from CPW, shall determine whether conditions of approval are necessary to Minimize Adverse Impacts from the proposed Oil and Gas Operations in the identified High Priority Habitat.
- B. In selecting conditions of approval the OGED Director and/or 1041 E-OGLA Hearing Officer shall consider the following factors, among other considerations:
1. The BMPs for the producing geologic basin in which the Oil and Gas Location is situated;
 2. Site-specific and species-specific factors of the proposed new Oil and Gas Location;
 3. Anticipated direct and indirect effects of the proposed Oil and Gas Location on Wildlife Resources;
 4. The extent to which conditions of approval will promote the use of existing facilities and reduction of new surface disturbance;
 5. The extent to which legally accessible, technologically feasible, and economically practicable alternative sites exist for the proposed new Oil and Gas Location;

6. The extent to which the proposed Oil and Gas Operations will use technology and practices which are protective of the environment and Wildlife Resources;
7. The extent to which the proposed Oil and Gas Location minimizes surface disturbance and habitat fragmentation; and
8. The extent to which the proposed Oil and Gas Location is within land used for residential, industrial, commercial, agricultural, or other purposes, and the existing disturbance associated with such use.

18.12.860. Other general operating requirements regarding wildlife protection.

Subject to exception by the OGED Director for site specific reasons and BMPs, the operating requirements identified below shall apply in all areas.

- A. To Minimize Adverse Impacts to Wildlife Resources, Operators shall plan new transportation networks and new oil and gas facilities to minimize surface disturbance and the number and length of oil and gas roads and utilize common roads, rights-of-way, and access points to the extent practicable, consistent with these rules, an Operator's operational requirements, and any requirements imposed by federal and state land management agencies, the City's and County's regulations, and SUAs and other Surface Owner requirements, and taking into account cost effectiveness and technical feasibility.
- B. Establish new staging, refueling, and Chemical storage areas outside of riparian zones and Floodplains.
- C. Use minimum practical construction widths for new rights-of-way where Pipelines cross riparian areas, streams, and critical habitats.

18.12.870. Requirements in High Priority Habitats.

An Operator of an Oil and Gas Location within a High Priority Habitat shall follow the Operator's Wildlife Mitigation Plan, if one is required pursuant to Rule 1201 of the COGCC Rules.

18.12.880. General operating requirements in High Priority Habitats.

- A. Subject to exception by the OGED Director for site specific reasons and BMPs, within High Priority Habitat and Restricted Surface Occupancy Areas, Operators shall comply with the following operating requirements:
 1. During Pipeline construction for trenches that are left open for more than five (5) days and are greater than five (5) feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of one-quarter (¼) mile intervals where the trench parallels well-defined game trails.
 2. Inform and educate employees and contractors on wildlife conservation practices, including no harassment or feeding of wildlife.
 3. Consolidate new facilities to minimize impact to wildlife.
 4. Minimize rig mobilization and demobilization where practicable by completing or re-completing all Wells from a given Well pad before moving rigs to a new location.
 5. To the extent practicable, share and consolidate new corridors for Pipeline rights-of-way and roads to minimize surface disturbance.
 6. Engineer new Pipelines to reduce field fitting and reduce excessive right-of-way widths and Reclamation.
 7. Use boring instead of trenching across perennial streams considered critical fish habitat.

8. Treat any Pits, Freshwater Pits or open vessels containing water that provides a medium for breeding mosquitoes with Bti (*Bacillus thuringiensis v. israelensis*) or take other effective action to control mosquito larvae that may spread West Nile Virus to wildlife, especially grouse.
9. Use wildlife appropriate seed mixes wherever allowed by Surface Owners and regulatory agencies.
10. Mow or brush hog vegetation where appropriate, leaving root structure intact, instead of scraping the surface, where allowed by the Surface Owner.
11. Limit access to oil and gas access roads where approved by Surface Owners, surface managing agencies, or Local Government, as appropriate.
12. Post interior speed limits and caution signs to the extent allowed by Surface Owners, as appropriate.
13. Use wildlife-appropriate fencing where acceptable to the Surface Owner.
14. Use topographic features and vegetative screening to create seclusion areas, where acceptable to the Surface Owner.
15. Use remote monitoring of Well production to the extent practicable.
16. Reduce traffic associated with transporting fluids through the use of Pipelines, large Tanks, or other measures where technologically feasible and economically practicable.

18.12.890. Site preparation and stabilization.

A. Soil removal and segregation.

1. *Soil removal and segregation on Crop Land.* As to all excavation operations undertaken on Crop Land, the Operator shall separate and store soil horizons separately from one another and mark or document stockpile locations to facilitate subsequent Reclamation. When separating soil horizons, the Operator shall segregate horizons based upon noted changes in physical characteristics such as organic content, color, texture, density, or consistency. Segregation will be performed to the extent practicable to a depth of six (6) feet or bedrock, whichever is shallower.
2. *Soil removal and segregation on non-Crop Land.* As to all excavation operations undertaken on non-Crop Land, the Operator shall separate and store the topsoil horizon or the top six (6) inches, whichever is deeper, and mark or document stockpile locations to facilitate subsequent Reclamation. When separating the soil horizons, the Operator shall segregate the horizon based upon noted changes in physical characteristics such as organic content, color, texture, density, or consistency.
3. *Horizons too rocky or too thin.* When the soil horizons are too rocky or too thin for the Operator to practicably segregate, then the topsoil shall be segregated to the extent practicable and stored. Too rocky shall mean that the soil horizon consists of greater than thirty-five percent (35%) by volume rock fragments larger than ten (10) inches in diameter. Too thin shall mean soil horizons that are less than six (6) inches in thickness. The Operator shall segregate remaining soils on Crop Land to the extent practicable to a depth of three (3) feet below the ground surface or bedrock, whichever is shallower, based upon noted changes in physical characteristics such as color, texture, density or consistency and such soils shall be stockpiled to avoid loss and mixing with other soils.

B. *Protection of soils.* All stockpiled soils shall be protected from degradation due to contamination, compaction and, to the extent practicable, from wind and water erosion during drilling and production operations. BMPs to prevent weed establishment and to maintain soil microbial activity shall be implemented.

C. *Drill pad location.* The drilling location shall be designed and constructed to provide a safe working area while reasonably minimizing the total surface area disturbed. Consistent with applicable spacing orders and Well location orders and regulations, in locating drill pads, steep slopes shall be avoided when reasonably possible. The drill pad site shall be located on the most level location obtainable that will accommodate the

intended Use. If not avoidable, deep vertical cuts and steep long fill slopes shall be constructed to the least percent slope practical. Where feasible, Operators shall use horizontal drilling to reduce cumulative impacts and Minimize Adverse Impacts on Wildlife Resources.

D. *Surface disturbance minimization.*

1. In order to reasonably minimize land disturbances and facilitate future Reclamation, Well Sites, Production Facilities, gathering Pipelines, and access roads shall be located, adequately sized, constructed, and maintained so as to reasonably control dust and Minimize Erosion, alteration of natural features, removal of surface materials, and degradation due to contamination.
2. Operators shall avoid or Minimize Adverse Impacts to wetlands and riparian habitats to the degree practicable.
3. Where practicable, Operators shall consolidate facilities and Pipeline rights-of-way to Minimize Adverse Impacts to Wildlife Resources, including fragmentation of wildlife habitat, as well as cumulative impacts.
4. Access roads. Existing roads shall be used to the greatest extent practicable to Minimize Erosion and minimize the land area devoted to Oil and Gas Operations. Roadbeds shall be engineered to avoid or Minimize Adverse Impacts to riparian areas or wetlands to the extent practicable. Unavoidable impacts shall be mitigated. Road crossings of streams shall be designed and constructed to allow fish passage, where practicable and appropriate. Where feasible and practicable, Operators are encouraged to share access roads in developing a Field. Where feasible and practicable, roads shall be routed to complement other Land Usage. To the greatest extent practicable, all vehicles used by the Operator, contractors, and other parties associated with the Well shall not travel outside of the original access road boundary. Repeated or flagrant instance(s) of failure to restrict lease access to lease roads which result in unreasonable land damage or crop losses shall subject the 1041 E-OGLA Permit to suspension or revocation by the 1041 E-OGLA Hearing Officer pursuant to this Chapter.

18.12.900. General Reclamation requirements.

- A. *Surface restoration.* The surface of the land shall be restored as nearly as practicable to its condition at the commencement of drilling operations, including topsoil restoration and protection.
- B. *Surface Owner Reclamation release form.* The Surface Owner has the right to waive Reclamation requirements set forth in this Chapter, unless such Reclamation is deemed necessary to protect public health, safety and welfare, environment and wildlife of the City, as determined by the OGED Director.
- C. *Oil and Gas Operator obligations.* The Oil and Gas Operator has the obligation to remove all equipment and infrastructure from the site inclusive of pipelines, tank batteries, and well heads.

18.12.910. Interim Reclamation.

- A. *General.* Debris and waste materials other than de minimis amounts, including, but not limited to, concrete, sack bentonite and other drilling mud additives, sand, plastic, pipe and cable, as well as equipment associated with the drilling, re-entry, or Completion operations shall be removed. All waste shall be handled according to this Chapter. All Freshwater or Production Ponds, cellars, rat holes, and other bore holes unnecessary for further Oil and Gas Operations, will be backfilled as soon as possible after the drilling rig is released to conform with surrounding terrain. On Crop Land, if requested by the Surface Owner, guy line anchors shall be removed as soon as reasonably possible after the Completion rig is released. When permanent guy line anchors are installed, it shall not be mandatory to remove them. When permanent guy line anchors are installed on Crop Land, care shall be taken to minimize disruption or cultivation, irrigation, or

harvesting operations. If requested by the Surface Owner the anchors shall be specifically marked, in addition to the marking required below, to facilitate farming operations. All guy line anchors left buried for future use shall be identified by a marker of bright color not less than four (4) feet in height and not greater than one (1) foot east of the guy line anchor.

- B. *Interim Reclamation of areas no longer in use.* All disturbed areas affected by drilling or subsequent operations, except areas reasonably needed for production operations or for subsequent drilling operations to be commenced within twelve (12) months, shall be reclaimed as early and as nearly as practicable to their original condition or their final Land Use as designated by the Surface Owner and shall be maintained to control dust and Minimize Erosion to the extent practicable. As to Crop Lands, if subsidence occurs in such areas additional topsoil shall be added to the depression and the land shall be re-leveled as close to its original contour as practicable. Interim Reclamation shall occur no later than three (3) months on Crop Land or six (6) months on Non-Crop Land after such operations. The Operator may submit a 1041 E-OGLA Sundry Form to the OGED Director requesting an extension due to conditions outside the Operator's control. Areas reasonably needed for production operations or for subsequent drilling operations to be commenced within twelve (12) months shall be compacted, covered, paved, or otherwise stabilized and maintained in such a way as to minimize dust and erosion to the extent practicable.
- C. *Compaction alleviation.* All areas compacted by drilling and subsequent Oil and Gas Operations which are no longer needed following completion of such operations shall be cross-ripped. On Crop Land, such compaction alleviation operations shall be undertaken when the soil moisture at the time of ripping is below thirty-five percent (35%) of field capacity. Ripping shall be undertaken to a depth of eighteen (18) inches unless and to the extent bed rock is encountered at a shallower depth.
- D. *Restoration and revegetation.* When a Well is completed for production, all disturbed areas no longer needed will be restored and revegetated as soon as practicable.
1. *Revegetation of Crop Lands.* All segregated soil horizons removed from Crop Lands shall be replaced to their original relative positions and contour and shall be tilled adequately to re-establish a proper seedbed. The area shall be treated if necessary and practicable to prevent invasion of Weeds, and to minimize erosion. Any perennial forage crops that were present before disturbance shall be re-established, if acceptable to the Surface Owner.
 2. *Revegetation of non-Crop Lands.* All segregated soil horizons removed from non-Crop Lands shall be replaced to their original relative positions and contour as near as practicable to achieve erosion control and long-term stability and shall be prepared adequately to establish a proper seedbed. The disturbed area then shall be reseeded in the first favorable season following rig demobilization. Reseeding with species consistent with the adjacent plant community is encouraged. In the absence of an agreement between the Operator and the affected Surface Owner as to what seed mix should be used, the Operator shall consult with a representative of the local soil conservation district to determine the proper seed mix to use in revegetating the disturbed area. In an area where an Operator has drilled or plans to drill multiple Wells, in the absence of an agreement between the Operator and the affected Surface Owner, the Operator may rely upon previous advice given by the local soil conservation district in determining the proper seed mixes to be used in revegetating each type of terrain upon which operations are to be conducted. Interim Reclamation of all disturbed areas no longer in use shall be considered complete when all ground surface disturbing activities at the site have been completed, and all disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized in such a way as to Minimize Erosion to the extent practicable, or a uniform vegetative cover has been established that reflects pre-disturbance or Reference Area forbs, shrubs, and grasses with total percent plant cover of at least eighty percent (80%) of pre-disturbance levels or Reference Areas, excluding Eeeds. Re-seeding alone is insufficient.
 3. *Interim Reclamation.* The Operator shall notify the OGED Director via the 1041 E-OGLA Sundry Form with a description of the interim Reclamation procedures and any associated mitigation measures

performed, any changes, if applicable in the landowner's designated final Land Use, and at a minimum four (4) color photographs taken during the growing season of vegetation, one (1) from each cardinal direction which document the success of the interim Reclamation and one (1) color photograph which documents the total cover of live perennial vegetation of adjacent or nearby undisturbed land or the Reference Area. Each photograph shall be identified by date taken, location name, GPS location, and direction of view.

4. *Temporary Access Permits.* If a Temporary access permit is associated with a drill site, the Temporary access will be reclaimed in accordance with City of Evans Standards.
5. *Weed control.* All areas being reclaimed shall be kept as free of Weeds as practicable. Weed control measures shall be conducted in consultation with the Weld County Weed Management Specialist. It is the responsibility of the Operator to monitor reclaimed lands for Weed infestations. If necessary, the City Community Development Director or the OGED Director may require a Weed control plan.

18.12.920. Final Reclamation.

- A. *Well Sites, associated Production Facilities, and access roads.* Upon the Plugging and Abandonment of all Wells on Location or final closure of associated Production Facilities, all Freshwater Pits or Production Pits, mouse and rat holes and cellars shall be backfilled. All debris, abandoned Gathering Line Risers and Flowline Risers, and surface equipment shall be removed within three (3) months of plugging the final Well on Location or final closure of associated Production Facilities. All access roads to Plugged and Abandoned Wells and associated Production Facilities shall be closed, graded, recontoured, and fully reclaimed. Culverts and any other obstructions that were part of the access road(s) shall be removed. All applicable, compaction alleviation, restoration, and revegetation of Well Sites, associated Production Facilities, and access roads shall be performed to the same standards as established for interim Reclamation under this Chapter, above. All other equipment, supplies, weeds, rubbish, and other waste material shall be removed. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal Solid Waste Disposal regulations. In addition, material may be burned or buried on the premises only with the prior written consent of the Surface Owner. The Evans Fire Protection District shall be consulted regarding the need for burn permits. After plugging the final Well on Location or final closure of associated Production Facilities, all such Reclamation work shall be completed within three (3) months on Crop Land and twelve (12) months on non-Crop Land. The OGED Director may grant an extension where unforeseen circumstances are encountered, but every reasonable effort shall be made to complete Reclamation before the next local growing season. Such request shall be made in writing to the OGED Director via the 1041 Sundry Form.
- B. *Final Reclamation threshold for approval and release.* Successful Reclamation of the Well Site, associated Production Facilities, and access road means:
 1. On Crop Land, Reclamation has been performed to the standards established under this Chapter and there has been no significant unrestored subsidence over two growing seasons.
 2. On Non-Crop Land, Reclamation has been performed to the standards established under this Chapter and disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized in such a way as to Minimize Erosion to the extent practicable, or a uniform vegetative cover has been established that reflects pre-disturbance or Reference Area forbs, shrubs, and grasses with total percent plant cover of at least eighty percent (80%) of pre-disturbance levels or Reference Areas, excluding noxious weeds. The Operator shall consider the total cover of live perennial vegetation of Reference Area, not including overstory or tree canopy cover, having similar soils, slope and aspect of the reclaimed area.
 3. Disturbances resulting from Flowline installations and/or removal shall be deemed adequately reclaimed when the disturbed area is reasonably capable of supporting the pre-disturbance Land Use.

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- C. Final Reclamation of all disturbed areas shall be considered complete when all activities disturbing the ground have been completed, and all disturbed areas have been either built upon, compacted, covered, paved, or otherwise stabilized in such a way as to Minimize Erosion, or a uniform vegetative cover has been established that reflects pre-disturbance or Reference Area forbs, shrubs, and grasses with total percent plant cover of at least eighty percent (80%) of pre-disturbance levels or Reference Areas, excluding Weeds, or equivalent permanent, physical erosion reduction methods have been employed. Re-seeding alone is insufficient.
- D. *Weed control.* All areas being reclaimed shall be kept as free of Weeds as practicable. Weed control measures shall be conducted in consultation with the Weld County Weed Management Specialist. It is the responsibility of the Operator to monitor reclaimed lands for Weed infestations. If necessary, the OGED Director may require a Weed control plan.
- E. *Final Reclamation release.* The Operator shall submit a request for release via the 1041 E-OGLA Sundry Form upon completion of the requirements outlined in this Chapter above. This request for release shall be submitted no later than two (2) growing seasons after Reclamation work was conducted. The request for release shall include a description of the final Reclamation procedures, any associated mitigation measures performed and any changes, if applicable, in the landowner's designated final Land Use. The Operator shall attach the following:
1. If located on Crop Land a minimum of four (4) color photographs one (1) from each cardinal direction taken during both the growing and non-growing season, which document the success of the final Reclamation. If located on Non-Crop Land a minimum of four (4) color photographs one (1) from each cardinal direction taken during the growing season of vegetation and one (1) color photograph which documents the total cover of live perennial vegetation of adjacent or nearby undisturbed land or the Reference Area. Each photograph shall be identified by date taken, location name, GPS location, and direction of view.
 2. Where necessary, the Operator shall submit to the OGED Director a Surface Owner Reclamation release form if the Surface Owner wishes to have areas un-reclaimed or items left on location. The OGED Director shall review the request and determine if Reclamation will be necessary to protect public health, safety and welfare, environment and wildlife of the City pursuant to this Chapter. Upon the OGED Director's approval, the Surface Owner Reclamation release form shall be placed of record with the Weld City Clerk and Recorder.
 3. The OGED Director shall complete a review of the submittal and when necessary, perform an on-site inspection. If the OGED Director determines that there are no outstanding compliance issues associated with the location, the final Reclamation shall be deemed complete and approved. The Operator shall then be released of any further obligations on the location. If the OGED Director determines Reclamation efforts to be insufficient or incomplete the Operator will be notified, in writing, of such findings. Approval by the OGED Director is required for an Operator to be released of obligations on the location.

18.12.930. Application and Processing Fees; Enforcement.

A. Application and Processing Fees. The City shall impose fees adopted by Resolution by the City Council, necessary to defray the costs of processing the application and permit required by this Chapter.

B. Enforcement. An Operator or Applicant's failure to comply with the provisions of the Evans Municipal Code or the site specific 1041-EOGLA permit requirements may subject the Operator or Applicant to permit denial or revocation, and/or penalties under Chapters 1.16 and 1.17 of the Evans Municipal Code.

18.12.940. Variances.

An Operator may seek a variance, due to hardship, to any rule or regulation found in this Chapter. A variance request shall be submitted in writing to the Community Development Director and the OGED Director as part of the 1041 E-OGLA Permit Application via the Sundry Form. Should an Operator seek a variance to an order issued by the 1041 Hearing Officer, the Applicant shall submit their request to the OGED Director via the 101 E-OGLA Sundry Form. A subsequent hearing shall be required for the Hearing Officer to consider a variance. The Operator requesting a variance must show that it has made a good faith effort to comply or is unable to comply with the specific requirements contained in these 1041 E-OGLA Regulations or the 1041 E-OGLA Permit from which it seeks a variance. The Operator must also demonstrate through mitigation measures that the requested variance shall Minimize Adverse Impacts to public health, safety, welfare, and environment including Wildlife Resources.

18.10.010 - Public hearing notice.

City staff shall provide notice of public hearings for the land use applications listed in accordance with the table below, and as described within this Chapter. City staff shall provide notice of land use applications which are approved through an administrative process listed in accordance with the table below, and as described within this Chapter:

	Notice Required			
	Certified Mail	Regular Mail	Published Notice	Sign Posting Notice
Annexation with or without concurrent Zoning Amendment	Required		Required	Required
Zoning Amendment	Required		Required	Required
Variance		Required	Required	Required
Special Use		Required	Required	Required
Site Plan and Redevelopment Plan		Required		Required
Preliminary Plan and Sketch Plan		Required		Required
Final Plat		Required	Required	Required
Planned Unit Development		Required	Required	Required
Replats		Required	Required, if land use hearing is necessary	Required
<u>1041 Designation of an Area or Activity of State Interest</u>			<u>Required</u>	
<u>1041 Oil and Gas Application</u>		<u>Required</u>	<u>Required</u>	<u>Required</u>

18.03.010 Definitions Section

The following definitions shall be replaced, edited or added as specified below. Terms in strike-out text are those to be deleted. Terms in redline/underline text are those to be added.

~~*Building* means any structure used or intended for supporting or sheltering any use or occupancy.~~

***BUILDING UNIT:** For the purpose of obtaining an Evans Oil and Gas Location Assessment, shall mean a Residential Building Unit and every five thousand (5,000) square feet of building floor area in commercial facilities or every fifteen thousand (15,000) square feet of building floor area in warehouses that are operating and normally occupied during working hours.*

~~*Development* means any manmade change to improved or unimproved real property including, but not limited to, grading, paving, mining, excavating, construction, substantial improvement to an existing structure, or addition of a new structure.~~

Development: Any construction or activity which changes the basic character or the use of improved or unimproved real property, as determined in accordance with the provisions of Title 18 of this Code. These activities include but are not limited to grading, paving, mining, excavating, construction; moving vehicles, equipment or structures on site; making a substantial improvement to an existing structure, or the addition of a new structure, or a change in use of a building or the property, for example. Development may necessitate a land use permit and / or other permits to be issued by the City of Evans. Development in Evans requires compliance with Development Standards of this Title.

Temporary means a period of six (6) months or less.

~~*Use* means the activity or function that actually takes place or is intended to take place on a lot or in any building.~~

Use: Any purpose for which a structure or a tract of land is designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation which is carried on, in or on a structure or on a tract of land. The term may also be referred to herein as "Land Use".

Base Zoning District: The underlying zoning district.

Overlay Zoning District: An area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered.

Section 18.06.060.F.5.k

Oil and gas facilities. Oil and gas facilities shall only be installed, erected and/or constructed in accordance with [the Evans Land Use Code Chapter regarding Areas and Activities of State Interest](#). ~~Section 18.06.080, Oil and Gas. Landscaping plans must be presented with the application and must be approved by City. Such plans must show the proposed types and locations of all natural plantings, ground coverings and screening, including the size and number of trees.~~

~~18.06.080 – Oil and gas.~~

~~A. Legislative purpose. It is found and declared that the location and operation of drilling and producing oil, liquid petroleum and natural gas wells within the City shall be subject to regulation under the police power. The business of drilling, producing, storing and handling of flammable and explosive liquids and the noxious odors, noise, environmental damages, aesthetic diminution and hazards that emanate from such an activity make the regulation of the location of oil and gas wells and the operation thereof necessary and reasonable to promote the public health, safety and general welfare and to require zoning regulation pursuant to criteria of this Section for use by special review.~~

~~B. Legislative intent. The legislative intent of this Section is to:~~

- ~~1. Recognize that oil and gas wells are a necessary facet of natural energy production;~~
- ~~2. Recognize and ensure the rights of those concerned to extract petroleum resources from the earth;~~
- ~~3. Recognize and ensure the rights of those concerned with the use and development of the surface of the land;~~
- ~~4. Ensure that the petroleum resource land uses are compatible with the total environment of the community; and~~
- ~~5. Protect the public from the hazards of oil and gas well drilling and development.~~

~~C. Scope.~~

- ~~1. The provisions of this Section shall apply to the construction, drilling, alteration, repair, erection, location and maintenance of any gas or oil well, accessory equipment or structure within the City.~~
- ~~2. For the purposes of this Section, application for use by special review may be sought by an individual who has a property interest in underlying oil and gas sufficient to allow use of the surface for extraction.~~
- ~~3. Where, in any specific case, the gas and oil well requirements of any other agency or other provision of this Code are in conflict with this Section, the more restrictive requirements shall be imposed.~~

4. Nothing in this Section shall be construed to diminish the applicability of the other development related codes of the City. It is particularly noted that this Section allows oil and gas drilling and development as a special use under the zoning code of the City.

~~D. Definitions and word usage. Unless the context otherwise requires, the definitions set forth in this Section govern the meaning and the interpretation of these regulations. Words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory. Words not defined in this Section shall have the meanings commonly given to them in the petroleum industry.~~

~~*Abandonment* means the disuse of a well for exploration or for producing oil or gas for a continuous period of one hundred eighty (180) days unless, upon application submitted prior to the expiration of that time, the planning director finds that such discontinued use was the result of adverse market conditions or absence of equipment, in which case the period shall be extended for a time not to exceed one hundred eighty (180) days.~~

~~*Co-located* means grouped in proximity to one another; sometimes referred to as "twinning."~~

~~*Gas well* means any well drilled, to be drilled, or used for the intended or actual production of natural gas and associated hydrocarbons.~~

~~*Oil well* means any well drilled, to be drilled, or used for the intended or actual production of liquid petroleum or petroleum products or for the enhancement of production from an existing well.~~

~~*Operator* means an individual, partnership, company or corporation holding a mineral interest in property and who is exercising that interest through oil and gas drilling on that property.~~

~~*Person* means and includes both the singular and the plural and means and includes any person, individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation or political subdivision whatsoever.~~

~~*Place of assembly* means any structure, room or space, whether indoor or outdoor, for the congregation or seating of fifty (50) or more persons.~~

~~*Proposed construction* means construction for which the City has received an application for a building permit; however, if actual construction is not commenced within six (6) months of the application, the request and any submission attached to the request will not be considered proposed construction. If submitted within six (6) months of the expiration of the aforementioned time period, the reapplication for a building permit at the same site or general site for which a previous building permit has expired shall not be deemed proposed construction.~~

~~*Structure* means anything constructed or erected that has three (3) or more walls and a roof.~~

~~*Well* means and includes any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of producing and recovering any oil, gas, liquid hydrocarbon or any combination of them.~~

~~E. Permit Required. No person shall commence operations for the drilling, completion or production of an oil and gas well within the City without first having lawfully complied with this Section, the zoning code set out in [Title 19](#) of this Code and all other provisions of this Code and any~~

amendments thereto. It is unlawful for any person to commence operations for the drilling, completion or production of an oil or gas well within the City without first having lawfully complied with the requirements of this Section and any amendments thereto.

F. ~~Oil and gas well locations and setbacks for structures, utility easements and rights of way.~~

1. ~~Drilling. The drilling and operation of wells shall comply with the regulations established by the Colorado Oil and Gas Conservation Commission.~~
2. ~~Setbacks from wellheads. The following distances are hereby established as minimum setbacks related to oil and gas wells:~~
 - a. ~~One hundred fifty (150) feet for all structures not necessary to the operation of the well; and~~
 - b. ~~Three hundred (300) feet for all structures and places used as a place of assembly.~~
3. ~~Setbacks from all tank batteries. The minimum distance setback from all gas and oil well tank batteries, separators and ancillary equipment is three hundred (300) feet for all structures not necessary to the operation of the well and for structures and places used as a place of assembly.~~
4. ~~Setbacks from any street, alley or right of way. The minimum distance separation between any public street, alley or right of way and a wellhead and/or any tank battery, separator and ancillary equipment is seventy five (75) feet.~~
5. ~~Setbacks from any utility easement. The minimum distance separation between any utility easement and a wellhead and/or any tank battery, separator and ancillary equipment is twenty (20) feet.~~
6. ~~A three hundred foot minimum setback is required between new oil and gas facilities and wellheads, and building units, or a three hundred foot setback from property lines, whichever is greater.~~
7. ~~A minimum safety setback of two hundred (200) feet is required between wells and tank batteries, and any building, public road, major above ground utility line, or railroad is required at the time of drilling.~~

G. ~~Application for use by special review. Persons or firms desiring to drill any gas or oil well, with or without accessory equipment or structures, shall file a written application with the planning director. Such application shall meet the standards set forth in this Section as well as all other standards prescribed for use by special review under the zoning code. The written application shall contain the following general information:~~

1. ~~Request for approval for use by special review under the form and procedures of the zoning code. This request shall include a full description of the intended use, site improvements and characteristics of installation, operation, maintenance, site restoration and abandonment.~~
2. ~~Evidence of leasehold, resource ownership or owner's authorization.~~
3. ~~The name and address of each owner of an interest of record in the oil and gas leases under which such well is to be drilled, operated, maintained or abandoned.~~

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4. ~~The name and address of the person or firm in charge of the operation and maintenance of such well.~~
 5. ~~The name and address of the person or firm in charge of the work to be done under such permit.~~
 6. ~~A true and accurate listing of the names and addresses of the owners of all real estate situated within five hundred (500) feet of the proposed well, accessory equipment and structure site, according to county assessor records current at the time of the application.~~
 7. ~~Notice of the public hearing for the use by special review shall be given in accordance with Chapter 19.64 of this Code.~~
 8. ~~Evidence of satisfaction of the bond requirement (see Subsections H and I of this Section).~~
 9. ~~Evidence of satisfaction of the insurance requirement (see Subsection J of this Section).~~
 10. ~~Site or master plan for intended use (see Subsection L of this Section). The number of copies to be submitted shall be as specified by the planning director.~~
 11. ~~Conceptual restoration plan (see Subsection M of this Section).~~
 12. ~~Specification and graphic representation of the equipment to be used and the improvements to be made. Specific attention shall be given to the intended measures of noise mitigation and ensuring the public safety.~~
 13. ~~Certification that the owners of the leasehold interest and the persons in charge of the drilling, operation maintenance or abandonment of such well are familiar with the ordinances of the City and will abide by the provisions thereof.~~
 14. ~~Waste and storage plan (see Subsection N of this Section).~~

H. ~~Bond requirements.~~

1. ~~Every operator shall, prior to commencing drilling, submit and maintain a bond in favor of the City in the amount of one hundred thousand dollars (\$100,000.00) for each well to be drilled. The bond is to be executed by the operator and a corporate surety authorized to do business in the State and conditioned that the operator shall pay all fees and sums due the City under this Section and comply and abide by the ordinances of the City and laws of the State, and, should the operator fail to do so, to pay all costs and expenses incident for such determination by test or otherwise determine whether such failure to comply with such ordinances and laws has resulted in any damage to the City or others, and if so, pay the expenses and costs of correcting such condition created by such failure and all damages resulting therefrom.~~
 2. ~~Any bond required in this Section that lapses or becomes void for any reason whatsoever shall cause the drilling and/or operation of the well covered by such bond to be in violation of this Code until a new bond shall be provided and filed with the administrative official or the existing bond reinstated in full force, and such well shall be suspended and discontinued, consistent with safety consideration, until the filing of such new bond or reinstatement of such existing bond.~~
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- I.—~~Blanket bond. In lieu of the requirements provided in Subsection H above, an operator may file with the planning director a blanket bond designed to cover all drilling operations within the City. At no time shall the amount of such blanket bond be less than one hundred thousand dollars (\$100,000.00) times the number of wells being drilled. Additionally, an operator may file with the planning director a blanket bond for all wells completed and in operation within the City. The amount of the operation blanket bond shall be two hundred thousand dollars (\$200,000.00) for all such wells within the City limits.~~
- J.—~~Insurance requirements. Every operator shall also submit a copy of a policy of insurance in the amount of one million dollars (\$1,000,000.00) insuring the applicant and the City against all claims or causes of action made against either or both applicant and City for damages to persons or property arising out of the drilling, maintenance, production and other work done with respect to such proposed oil or gas well. Such policies shall be written by a company authorized to do business in the State.~~
- K.—~~Site and master plan.~~
- 1.—~~Site plan. Every applicant shall, at the time of filing an application, submit a site plan showing dimensions of the proposed well location lot and property lines, with a complete legal description of the proposed well site and with reference thereon to the surface owners of all such property within approximately three hundred (300) feet, potential accessory equipment, proposed roads and permanent structures.~~
 - 2.—~~Master plan. In lieu of the site plan required by Subsection K.1 of this Section, the applicant may submit a master plan if more than one (1) well is to be drilled in a two year period and within a single geographical area. Such plan shall include the following:~~
 - a.—~~A full legal description of the single area covered by the master plan;~~
 - b.—~~For each well proposed in the area, all information required by Subsection K.1 of this Section; and~~
 - c.—~~If a battery of accessory equipment will serve all or part of the proposed area, the site of such battery shall be included.~~
- L.—~~Well site restoration.~~
- 1.—~~Upon abandonment of an oil or gas well or exploration hole, the operator shall plug the hole in accordance with Colorado Oil and Gas Conservation Commission regulations.~~
 - 2.—~~Wells that have penetrated a water bearing stratum shall be lined sufficiently above and below the stratum to prevent contamination.~~
 - 3.—~~When a well site is abandoned, all tanks, pumps, rigs, separators, treaters, batteries and any other facilities equipment and structures associated with these installations shall be removed.~~
 - 4.—~~An abandoned well site shall be restored to a condition substantially similar to the original contours and condition, or better.~~
 - 5.—~~Site restorations shall include leveling and reseeded all on site roads, access roads and areas disturbed by well activity.~~
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6. ~~To assure site revegetation, the City may require special treatment, such as temporary irrigation, windbreaks, soil treatment, addition of topsoil and protective groundcover and erosion control measures.~~
 7. ~~Site recovery shall be consistent with Colorado Oil and Gas Conservation Commission regulations and other applicable state and federal regulations.~~

~~M. Waste and storage requirements.~~

1. ~~No oil and gas produced from any well shall be saved, stored or confined in any tank or place or device of confinement at the well site, except as such may be permitted by the International Fire Code, as adopted and amended by the City.~~
2. ~~To the maximum extent possible, no oil and gas produced shall be permitted to escape the confines of the well, the wellhead or the transmission lines into the surrounding environment. Flaring of an oil or gas well shall be allowed under the rules of the Colorado Oil and Gas Conservation Commission and the chief of the City Fire Department. Burning of refuse waste material and other open fires is unlawful.~~
3. ~~At no time shall fluids of any kind or type be run into, stored or collected in unlined earthen pits. During the period of drilling, completion, operation, repair or maintenance of any well, the operator shall provide watertight tanks, vessels or pits lined with an impervious material to contain drilling mud, water or other types of liquid or solid waste. Solid and liquid waste shall be regularly removed from the premises to spill outside of the working area.~~
4. ~~The premises shall be kept in a clean and sanitary manner, free from rubbish of every character, to the satisfaction of the enforcement official. It is unlawful for any operator, their agent or employee, to permit within the corporate limits of the City the discharge of any mud, water, waste oil, slush or other waste matter from any slush pit, storage tank, or oil or gas well into the alleys, streets, lots, land or leases within the corporate limits of the City.~~

~~N. Public hearings — notice — issuance or denial of use by special review.~~

1. ~~Upon receipt of all necessary application materials, as specified in this Chapter and as necessary under the use by special review provisions of the zoning code, the Planning Commission and the City Council shall conduct the public hearings as prescribed for use by special review.~~
 2. ~~Public notice shall be given prior to the public hearings in the manner and form prescribed for use by special review.~~
 3. ~~Conditions precedent to granting use by special review for oil and gas drilling and production:~~
 - a. ~~The City Council must first find that in no event shall the density of oil and/or gas wells exceed the limits placed on such wells by the Colorado Oil and Gas Conservation Commission. Wells shall be co-located to the extent allowed by statute and/or the Colorado Oil and Gas Conservation Commission and to the extent feasible, as determined by the City Council.~~
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- b. ~~Tanks, heaters, separators and accessory equipment shall be limited to one (1) clustered installation ("battery") per leasehold up to one half (1/2) section, to the extent feasible, as determined by the City Council. Where mineral right leaseholds or ownerships are less than one quarter (1/4) section in size, such accessories and their location shall be coordinated from one leasehold to the next in such fashion that the apparent number of installations is minimized.~~
- c. ~~The City Council must find that the applicant has presented satisfactory evidence of insurance as required by Subsection J of this Section.~~
- d. ~~The City Council must find that the applicant has produced satisfactory evidence fulfilling the bond requirement required by Subsections H and I of this Section.~~
- e. ~~The City Council must find that the applicant has provided the master or site plan as required by Subsection L of this Section and that such plan fulfills the requirements of said Section.~~
- f. ~~The City Council must find that the applicant has a legitimate property interest sufficient to meet the requirements of this Section.~~

- 4. ~~If the City Council finds that all the requirements of the Paragraphs a through e of Subsection 3 of this Subsection have been met and further finds that the criteria of Chapter 19.44 of this Code have been, or by appropriate condition will be met, and if the Council further finds that the granting of the permit will not be injurious to the neighborhood in which the well is to be drilled or otherwise detrimental to the public welfare, then the permit shall be approved by resolution. Otherwise, the permit shall be denied.~~

~~Q. Drilling, completion, production and maintenance regulations.~~

- 1. ~~All operations shall be conducted in compliance with the requirements of this Chapter, the laws of the State, and the rules and regulations of the Colorado Oil and Gas Conservation Commission. Failure to follow these requirements will subject the user to the following sanctions:~~
 - a. ~~Enforcement of the penalty provisions of this Code;~~
 - b. ~~Cessation and closure of drilling and production by the City under the following terms and conditions:~~
 - i. ~~The site of drilling and production operations shall, at all times, be open for inspection by the enforcement official or his or her authorized representative;~~
 - ii. ~~If the enforcement official or his or her authorized representative determines that drilling or completion operations are not proceeding in accordance with the provisions of this Section, that person shall immediately notify the operator or producer in writing of the specific nature of the noncompliance or default. The operator shall have forty-eight (48) hours from the time of such notice to remedy any noncompliance or default. If the operator does not remedy any noncompliance or default within that time period, his or her use by special review shall be terminated. Once terminated, a use by special~~

review shall be reinstated upon full compliance with the provisions of this Section. The foregoing provision regarding notice and time to correct shall not apply to any violation creating a danger to human life or safety. For a safety violation, the enforcement officer may order immediate cessation of operations.

2. ~~Within twenty four (24) hours subsequent to an order to cease operations, the operator may request, in writing, a hearing before the Zoning Board of Appeals to review that order. Such request shall be submitted to the enforcement official. Such request shall be forwarded forthwith to the chairman of the Zoning Board of Appeals. The hearing shall be held within seven (7) working days of the receipt of the request by the enforcement official. The chairman of the Zoning Board of Appeals shall provide at least three (3) days' notice to the operator of the date, place and time of hearing. This hearing may be held at either a regular or special meeting of the Zoning Board of Appeals. After reviewing evidence in support of the enforcement official's order and evidence from the operator protesting that order, the Zoning Board of Appeals shall render findings. If the Zoning Board of Appeals finds substantial evidence in support of the order to cease operations, it shall affirm the decision of the enforcement official. If the Zoning Board of Appeals does not find such evidence, it shall strike the order and reestablish the use by right, reversing the decision of the enforcement official. The decision of the Zoning Board of Appeals shall be final subject to review by City Council. An affirmative vote of five (5) members of the City Council shall be required to overturn the decision of the Zoning Board of Appeals.~~
3. ~~Surface pipe shall be run and set in full compliance with the applicable rules and regulations of the Colorado Oil and Gas Conservation Commission and all applicable laws and ordinances. All gas piping shall be installed in conformance with the International Mechanical Code, as amended and adopted in this Code.~~
4. ~~Adequate precautions shall be taken and necessary wellhead safety devices used at all times during the drilling, completion, production, repair and maintenance of the well.~~
5. ~~Operations for the drilling, completion and equipping of any well to be drilled under the terms of this Section shall be completed within a period not to exceed one hundred eighty (180) days from the date of commencement thereof, and all drilling equipment, pulling and swabbing equipment removed on or before the expiration of such period.~~
6. ~~Private roads and drill sites. Prior to and during drilling operations, the operator shall maintain adequate access to the well site. During operation of the well, all private roads used for access to the drill site and the drill site itself shall be graded for adequate drainage and shall be surfaced and maintained to prevent dust and mud and to provide access for fire protection.~~
7. ~~Blowout protection. Appropriate blowout prevention shall be provided to prevent the blowout of an oil or gas well during drilling and re-drilling operation.~~
8. ~~Electric motors for pumping operations. Only electric power motors shall be used for pumping units. Power for such motors shall be derived from a public utility outlet. Where preexisting wells fail to meet this requirement, they shall be deemed to be nonconforming and subject to compliance within a six month period.~~
9. ~~Fencing. All drilling locations and equipment as well as all pumps and equipment used in the operation of a complete well shall be enclosed on all sides by a chain link fence at least~~

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- six (6) feet in height and, in addition, have not less than three (3) strands of barbed wire sloping outward at approximately a 45-degree (45°) angle for eighteen (18) inches from the top of the fence. There shall be no aperture below such fence greater than four (4) inches.
10. ~~Landscaping and/or screening. The City may require landscaping or screening. Landscaping shall be required where necessary in light of locational factors (i.e., proximity to residential areas) and shall be appropriate to the surrounding environment. All apparatus located above ground shall be painted in muted tones to be compatible with the surrounding areas.~~
 11. ~~Noise and vibration requirements. During all operations from commencement through abandonment, all noise and vibration shall conform to the requirements of this Code.~~
 12. ~~Control of noxious fumes. The operator and a producer shall make a good faith effort to control the escape of noxious fumes and in no event shall they be allowed to become a nuisance to abutting properties.~~
 13. ~~Signs. An approved sign having a surface area of not less than two (2) square feet and not more than six (6) square feet, bearing the current name and/or insignia of the operator, shall be displayed at all times for the commencement of operations until abandonment. The sign shall warn of safety hazards to the public. Advertising signs are prohibited.~~
 14. ~~Adequate fire fighting apparatus and supplies, approved by the City Fire Department, shall be maintained on the drilling site at all times during drilling, completion and repair operations. All machinery, equipment and installations on all drilling sites within the City limits shall conform to such requirements as may from time to time be issued by the Fire Department.~~
 15. ~~Building permits and all other applicable permits shall be obtained by the applicant pursuant to federal, state and local law.~~
- P. ~~Deeper drilling. Once any well has either been completed as a producer or abandoned as a dry hole, it is unlawful and an offense for any person to drill such well to a deeper depth than that reached in the prior drilling operations without providing evidence of the following to the administrative official:~~
1. ~~The then condition of the well and the casing therein;~~
 2. ~~The depth to which it is proposed such well be deepened;~~
 3. ~~The proposed casing program to be used in connection with proposed deepening operations;~~
 4. ~~Evidence of adequate current tests showing that the casing strings in the well currently pass the same tests as are provided for in this Section in case of the drilling of the original well. In the event the Planning Commission and the City Council are satisfied that the well may be deepened with the same degree of safety as existed in the original well, a supplemental use by special review may be issued without an additional filing fee authorizing the deepening and operation of the well to such specified depth as applied for. In any deeper drilling, or any deeper completion of any deeper production operations, the applicant shall comply with all other provisions contained in this Section and applicable to the drilling, completion and operation of a well or wells.~~
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~~Q. Transfer of operations. Subsequent to a grant of use by special review, no operator shall sell, transfer, assign or convey the drilling site, equipment or operations without notifying the Planning Department of such action. Prior to the commencing of drilling or production, the new operator shall submit evidence, satisfactory to the administrative official, of compliance with all of the provisions of this Chapter, including, but not limited to, appropriate insurance bonds.~~

~~R. Revocation. The violation or breach of any of the terms or conditions of this Section, the ceasing to exist of any of the conditions precedent listed in this Section or the breach of any of the terms or conditions of any use by special review pursuant hereto shall be grounds for the revocation of any use by special review permitted under this Section. Such revocation shall take place only upon a hearing by the Zoning Board of Appeals as set forth in Subsection O.2 above.~~

~~S. Penalty.~~

- ~~1. Any person who violates any of the provisions of this Section is guilty of a violation of this Chapter and shall be punished as provided in [Section 1.16.010](#) of this Code.~~
- ~~2. In the event an operator fails to comply with the provisions of this Section, the City may perform the required action and invoice the operator responsible, plus a ten percent (10%) fee for inspection and other administrative costs. The City shall first give written notice to the operator of the required action and allow at least fourteen (14) days to comply, except in the case of emergency. In the event an operator fails to pay an invoice from the City for such costs and fees within thirty (30) days of receipt of such invoice, the City may file a lien on the mineral property with the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with an additional ten percent (10%) penalty to defray the cost of collection. Such lien shall have priority over all other liens except general taxes and prior assessments. Nothing in this Subsection shall preclude or prevent the City from punishing violations of this Code in accordance with [Section 1.16.010](#) of this Code or any other applicable laws, ordinances, rules or regulations.~~

CITY OF EVANS, COLORADO

RESOLUTION NO. 11-2022

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH WELD COUNTY FOR THE USE OF WELD COUNTY OIL AND GAS ENERGY DEPARTMENT STAFF TO ASSIST WITH 1041 OIL AND GAS LOCATION ASSESSMENT PERMITTING AND ENFORCEMENT IN THE CITY OF EVANS

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, City Council has designated Areas and Activities of State Interest in the City of Evans; and

WHEREAS, City Council has adopted 1041 regulations for Areas and Activities of State Interest in the City of Evans; and

WHEREAS, the City of Evans is in need of assistance with 1041 Oil and Gas Location Assessment regulations and hearings, and

WHEREAS, intergovernmental agreements to provide functions or services, including the sharing of costs of such services or functions, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. § 29-1-203, and other sections of the Colorado Revised Statutes, and

WHEREAS, Weld County has an established Oil and Gas Energy Department (hereinafter referred to as “OGED”) that regularly enforces 1041 regulations and conducts 1041 hearings, and

WHEREAS, Weld County is willing and able to share the services of its Oil and Gas Energy Department with the City of Evans, pursuant to the terms of this Agreement, in order to assist the City of Evans with 1041 regulations and hearings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:

1. The City Council authorizes the Mayor to execute the Intergovernmental Agreement attached hereto as Exhibit A with Weld County for use of the Weld County Oil and Gas Energy Department staff to assist with 1041 Oil and Gas Location Assessment permit review, processing and enforcement for the City of Evans.

**INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL, 2022.**

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

Attachment A: Intergovernmental Agreement with Weld County

INTERGOVERNMENTAL AGREEMENT FOR USE OF WELD COUNTY OIL AND GAS ENERGY DEPARTMENT STAFF TO ASSIST WITH 1041 OIL AND GAS LOCATION ASSESSMENT ENFORCEMENT FOR THE CITY OF EVANS.

THIS AGREEMENT is made and entered into this ____ day of April, 2022, by and between the CITY OF EVANS, COLORADO, a Colorado Home Rule Municipality, by and through its City Council with offices located at 1100 37th Street, Evans, Colorado 80620 (hereinafter referred to as “City”) and COUNTY OF WELD, COLORADO, a Colorado Home rule County, by and through the Board of County Commissioners for Weld County, with offices located at 915 10th Street, Greeley, Colorado 80632 (hereinafter referred to as “County.”)

WITNESSETH:

WHEREAS, intergovernmental agreements to provide functions or services, including the sharing of costs of such services or functions, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. § 29-1-203, and other sections of the Colorado Revised Statutes, and

WHEREAS, the City of Evans is in need of assistance with 1041 Oil and Gas Location Assessment regulations and hearings, and

WHEREAS, Weld County has an established Oil and Gas Energy Department (hereinafter referred to as “OGED”) that regularly enforces 1041 regulations and conducts 1041 hearings, and

WHEREAS, Weld County is willing and able to share the services of its Oil and Gas Energy Department with the City of Evans, pursuant to the terms of this Agreement, in order to assist the City of Evans with 1041 regulations and hearings.

NOW, THEREFORE, in consideration of the mutual promises and covenants expressed herein, Weld County and the City of Evans hereby agree as follows:

1. **Sharing of County Oil and Gas Energy Department 1041 Services:** The County agrees to have its OGED staff spend a portion of their time, as needed, assisting the City with implementation of 1041 regulations inclusive of processing 1041 applications, and conducting 1041 hearings on behalf of and in coordination with the City as outlined in this Agreement. The County shall keep careful track of all OGED staff time spent on each 1041 Oil and Gas Location Assessment Application (“Application”). The County shall bill the City for all costs of said staff time and related costs incurred by the County for providing services to the City as outlined in Exhibit A, Payment Schedule, which may be updated annually.
2. **City’s Development Review:** The City shall be responsible for ensuring all the City’s resolutions, ordinances, codes, regulations, agreements, or other enactments of the City are adhered to by all parties who submit an Application to the County and the City. In addition, the City shall be responsible for making the final determination of whether to approve, deny, or come to another decision for each Application submitted to the County and City.

3. **Cost and Reimbursement:**

- a. **Application Processing.** The City shall pay an initial payment of ten thousand dollars (\$10,000.00) to the County for each Application submitted to the County and the City, within thirty (30) days of receipt of the Application. The County shall provide a final invoice to the City with the total price for all services and costs within thirty (30) days of the City notifying the County that the OGED Hearing Officer's Final Order was ratified by the City. The final invoice will reflect the actual OGED staff time and costs spent on the matter. The City shall have thirty (30) days from the date of the final invoice to remit payment to the County for any amount due and owing on the final invoice after the initial \$10,000.00 payment is applied to the invoice balance. In the event that the OGED actual staff time and costs is less than the initial \$10,000.00 payment, the County shall reimburse any amounts owed to the City within thirty (30) days of the City ratifying the OGED Hearing Officer's Final Order. Except as otherwise provided in this Agreement, all direct and indirect services rendered to the City by the County pursuant to the terms of this Agreement shall be billed to the City at the per hour rates specified in Exhibit A, Payment Schedule, which may be updated annually.
 - b. **Enforcement and Other Services.** The City may request the County to perform additional services outside of application processing including, but not limited to, re-evaluating an Application or Final Order, rehearing an Application in front of the OGED Hearing Officer, holding a suspension or revocation hearing, conducting regular or continuing inspections, or other enforcement activities. All associated OGED staff time and costs will be invoiced to the City within thirty (30) days of the conclusion of the services provided. The City shall pay any invoice from the County within thirty (30) days of the invoice date. Except as otherwise provided in this Agreement, all direct and indirect services rendered to the City by the County pursuant to the terms of this Agreement shall be billed to the City at the per hour rates specified in Exhibit A, Payment Schedule, which may be updated annually.
4. **Term:** The Agreement becomes effective upon signature of the County and the City. The term of this Agreement shall be from the date of signature hereunder to and until April 30, 2023, after which time this Agreement shall automatically renew from year to year, unless terminated sooner pursuant to the terms and conditions set forth in this Agreement.
5. **Termination:** This Agreement may be unilaterally terminated by any party with or without cause by providing ninety (90) days' written notice to the other party.
6. **Assignment:** No Party may assign this Agreement without prior written consent from the other Party.
7. **Compliance with Laws:** The County and the City agree to comply with the applicable provisions of all federal, state, or local laws or ordinances and all lawful orders, rules,

and regulations issued thereunder; and any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in this Agreement.

- 8. Modification:** This Agreement contains the entire Agreement and understanding between the Parties and hereby supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of or to this Agreement shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the Parties. No breach of any term, provision or clause of this Agreement shall be deemed waived or excused, unless such waiver of consent shall be in writing and signed by the party claimed to have so waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent, waiver of, or excuse for any other different or subsequent breach.
- 9. Governmental Immunity:** No portion of this Agreement shall be deemed a waiver, express or implied, of any immunities, rights, benefits, protections, or other provisions which a party, or its officers, employees, or agents, may possess pursuant to the Colorado Governmental Immunity Act § 24-10-101, *et seq.*, C.R.S., as applicable now or hereafter amended.
- 10. Severability:** If any section, subsection, paragraph, sentence, clause, or phrase of this Agreement is for any reason held or decided to be invalid or unconstitutional, such a decision shall not affect the validity of the remaining portions. The parties hereto declare that they would have entered into this Agreement and each and every section, subsection, paragraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared to be unconstitutional or invalid.
- 11. Third Party Beneficiary Enforcement:** It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other party not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.
- 12. Parties Relationship.** The Parties to this Agreement intend that the relationship between them contemplated by this Agreement is that of independent entities working in mutual cooperation. Employees, staff, and agents of any one party hereto are not to be considered employees, staff or agents of any other party hereto for any purposes and said persons may not hold themselves out as employees or agents of any other party hereto or otherwise make any representation or commitment on behalf of any other party hereto. No party shall be in any way required to provide any pecuniary benefits, salaries, wages, or fringe benefits to employees, staff or agents of the other party.

- 13. No Guarantee by Weld County:** The City acknowledges that although the goal of services to be performed by the OGED is to confirm compliance with all current 1041 regulations for all Applications, County makes no guarantee as to the effectiveness of such services in achieving such goal.
- 14. Notice:** Any notice to be given under this Agreement shall either be hand delivered, with signed receipt, or mailed to the party to be notified at the address set forth herein, with signed receipt, or by facsimile with confirmation, until such time as written notice of a change is received from the party wishing to make a change of address. Any notice so mailed and any notice served by personal delivery shall be deemed delivered and effective upon receipt or upon attempted delivery. This method of notification shall be used in all instances, except for emergency situations when immediate notification to the parties is required.
- 15. Entire Agreement:** This writing constitutes the entire Intergovernmental Agreement between the parties hereto with respect to the subject matter herein, and shall be binding upon said parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of said parties.

Any demand or notice to either party may be given to the other party by addressing the written notice to:

Weld County: Jason Maxey
Director, Oil & Gas Energy Department
1301 N 17th Avenue
Greeley, CO 80631

City of Evans: Anne Best Johnson
Community Development Director
1100 37th Street
Evans, CO 80620

[INTENTIONALLY LEFT BLANK]

ATTEST:
Weld County Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

BY: _____

Deputy Clerk to the Board

Scott K. James, Chair

CITY OF EVANS,
STATE OF COLORADO

APPROVED AS TO FORM:

Brian Rudy, Mayor

Weld County Attorney

City of Evans Attorney

EXHIBIT A – Payment Schedule

Application Processing: At the time of an Application submittal to the County and the City, the City shall pay an initial payment of ten thousand dollars (\$10,000.00) to the County per Application.

The City shall promptly notify the County after the Hearing Officer’s Final Order has been ratified by the City no later than seven (7) days after ratification. Within thirty (30) days of the City ratifying the OGED Hearing Officer’s Final Order, the County shall provide an updated final invoice to the City with the total price for all services and costs. The final invoice will reflect the actual time spent on the matter by the OGED staff and any costs associated with the services provided. The City shall have thirty (30) days from the date of the final invoice to remit payment to the County for any amount due and owing on the final invoice after the initial \$10,000.00 payment is applied to the invoice balance. In the event the OGED actual staff time and associated costs is less than the initial \$10,000.00 payment from the City, the County shall reimburse any amounts owed to the City within thirty (30) days of the City ratifying the OGED Hearing Officer’s Final Order.

Enforcement and Other Services: The City may request the County to perform additional services outside of application processing including, but not limited to, re-evaluating an Application or Final Order, rehearing an Application in front of the OGED Hearing Officer, holding a suspension or revocation hearing, conducting regular or continuing inspections, or other enforcement activities. All associated OGED staff time and costs will be invoiced to the City within thirty (30) days of the conclusion of the services provided. The City shall pay any invoice from the County within thirty (30) days of the invoice date.

Except as otherwise provided in this Agreement, all direct and indirect services rendered to the City by the County pursuant to the terms of this Agreement shall be billed to the City at the per hour rates listed below and as updated annually by the County.

Staff Member	Hourly Rate
Clerical: Stephanie Frederick or Elisa Kunkel	\$79.01
Jennifer Teeters	\$89.21
Amanda Petzold	\$95.26
Kelly Holliday	\$111.24
Jason Maxey	\$154.68
Hearing Officer: David Kulmann	\$90.00

CITY OF EVANS
NOTICE OF PUBLIC HEARING

Item # 8.

NOTICE is hereby given, that the Evans City Council will hold a Public Hearing on Monday, April 4 and Tuesday, April 19, 2022 starting at 7:00 P.M. at the Evans Community Complex, Council Chambers, 1100 37th Street, Evans, CO, to receive input and comments on Resolution 11-2022 and Ordinance Numbers 760-22 and 761-22 regarding a proposed Municipal Code Amendment to adopt certain 1041 Powers for Areas and Activities of State Interest for Oil and Gas activities within the City of Evans. These 1041 Powers will be incorporated into the Land Use Code, Title 18 of the Municipal Code.
All persons interested in this matter may be present and may be heard. Any interested person may also file support or objections to the proposed Municipal Code Amendments at any time prior to final adoption of the proposed amendment.
Additional information may be obtained from the Community Development Director, Anne Best Johnson, abjohnson@evanscolorado.gov, 1100 37th Street, Evans, Colorado, between the hours of 8:00 am and 5:00 pm, Monday through Friday. The full packet and agenda information will be available for review at: www.evanscolorado.gov

Published: Greeley Tribune March 2, 2022-1873026

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Weld
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

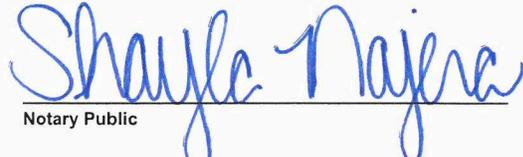
1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Greeley Tribune*.
2. The *Greeley Tribune* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Weld County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Greeley Tribune* in Weld County on the following date(s):

Mar 2, 2022



Signature

Subscribed and sworn to me before me this
2nd day of March, 2022.



Notary Public

(SEAL)

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

Account: 1098207
Ad Number: 1873026
Fee: \$22.00

CITY COUNCIL AGENDA REPORT

DATE: April 4, 2022

SUBJECT: Public Hearing: Consideration of Ordinance Number 762-22 to Update the 2010 Comprehensive Plan and Adopt the 2021 Community Master Plan

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Anne Best Johnson, Community Development Director

ITEM DESCRIPTION:

The purpose of this Agenda Report and the accompanying Ordinance is to present the final copy of the 2021 Community Master Plan with all exhibits for adoption. The Master Plan is a significant guiding document and was produced in concert with the Multi-Modal Master Plan. The Master Plan provides a foundation of vision and value statements along with action items to implement the vision citizens of Evans have for their community. Master Plans are generally updated every 5-10 years in Colorado and provide a 20-year outlook.

The Master Plan is a long-range policy document intended to guide decision makers on a variety of themes and issues including economic development, housing, land use, transportation, public services, water conservation, education, culture, recreation, tourism, natural resources and cultural resources. The Master Plan provides a platform for Evans to communicate its values and visions for the future.

As a reminder, the City of Evans applied for an Energy and Mineral Impact grant through the Division of Local Affairs in March, 2020. The city received a notice of award for an \$80,000 grant. With the City's local match in the amount of \$80,000, the total budget available for the project was \$160,000. The contract was awarded to Ayres and Associates on September 15, 2020 and work started with the Master Plan Steering Committee that fall.

The Master Planning Process included several community engagement events. These events provided an opportunity for the consulting teams and staff to hear from the public, to identify pain points, opportunities for improvement, desired amenities, a common vision, and common themes. Public engagement initiatives during COVID included surveys, virtual workshops, and open house events. In all, more than 2,000 responses were provided to ensure the outcome of the Master Plans as a community-driven vision. The following public engagement activities were held over the past 20 months for both the Master Plan and the Multi-Modal Master Plan:

- June, 2020 – November, 2021: Master Plan Steering Committee meetings were held twice a month. Each meeting was pre-published with an agenda. The public was encouraged to attend and provide comments for the Committee's consideration.
-

- August, 2020 – May, 2021: Monthly surveys regarding different themes in the Master Plan were deployed. On average, 100 residents responded to the surveys each month. Each month's survey was promoted on social media and all who wished to participate were encouraged to do so.
- Winter, 2020 – Spring 2021: A website was developed with several different mapping products for citizens to work and play with.
- Fall, 2020 through Fall, 2021: Work sessions with Planning Commission and City Council were held to discuss each chapter or theme of the Master Plan and the Multi-Modal Transportation Plan. Each work session was published and the public was encouraged to attend and provide comments for consideration.
- January, 2021: A Master Plan in a Box was coordinated with the School District. A mapping exercise was provided to Evans' school children to gather feedback on physical growth elements most valued by participants.
- March 25, 2021: CDOT, Envision, GET, Weld County, the Evans Fire Protection District and the Evans Police Department; along with the communities of Kersey, Milliken, Greeley, Gilcrest, LaSalle, Garden City, were invited to participate in a regional planning meeting. The intent of this meeting was to gather input to ensure the Evans' Multi-Modal Master Plan contained a regional and service-provider oriented vision and set of goals and strategies.
- November and December, 2021: Virtual workshops were held.
- May 27, 2021 and August 4, 2021: Community open house events were held. The event on August 4, 2021 was targeted to Spanish-speaking community members.
- September, 2021: Heritage Day station and hands-on interaction with staff
- September, 2021: Bike-to-work day station and hands-on interaction with staff
- January 29, 2022: A work session was held with members of City Council, Planning Commissioners and the Master Plan Steering Committee. This work session was published. Representatives from the Town of Milliken attended.
- February – March, 2022: The draft Master Plans were published on the City's website. Surrounding communities, Weld County and CDOT were provided an email on March 8 as well as March 30, 2022 inviting participation and feedback.

The Master Plan is the main guiding and visionary document for the City of Evans and is being recommended for adoption by City Council this evening. The 2021 Community Master Plan is available on the City website and at the following link: [evans_master_plan_2022_02_16.pdf \(evanscolorado.gov\)](https://www.evanscolorado.gov/files/evans_master_plan_2022_02_16.pdf)

FINANCIAL SUMMARY:

There are no financial implications to the City in adopting the Master Plan. The action items contained in the Master Plan are outlined and will be used for capital improvement planning, project and program budgeting purposes, and to target grant opportunities.

RECOMMENDATION:

Staff is recommending that City Council adopt the Community Master Plan for the City of Evans for use as a reference, guiding document and action plan for the community.

SUGGESTED MOTIONS:

“I move to approve Ordinance Number 762-22 on first reading as presented to adopt an update to the 2010 Comprehensive Plan.”

“I move to deny Ordinance Number 762-22 on first reading for the reasons stated.”

ATTACHMENTS:

- Ordinance Number 762-22
- [evans_master_plan_2022_02_16.pdf \(evanscolorado.gov\)](https://www.evanscolorado.gov/sites/default/files/fileattachments/master_plan_update_2020/page/17181/evans_master_plan_2022_02_16.pdf)
- https://www.evanscolorado.gov/sites/default/files/fileattachments/master_plan_update_2020/page/17181/evans_master_plan_2022_02_16.pdf
- Agenda for January 29, 2022 Work Session

CITY OF EVANS, COLORADO

ORDINANCE NO. 762-22

ADOPTING AN UPDATE TO THE 2010 COMPREHENSIVE PLAN FOR THE CITY OF EVANS, COLORADO

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, State law empowers communities to adopt a comprehensive master plan pursuant to Colorado Revised Statutes Section 31-23-206; and

WHEREAS, the existing Evans Comprehensive Plan was last updated in 2010; and

WHEREAS, City Council voted to update the 2010 Comprehensive Plan in 2020; and

WHEREAS, significant public engagement and outreach has occurred throughout the process of developing the 2021 Master Plan; and

WHEREAS, the Planning Commission, Master Plan Steering Committee and City Council have heard updates to the Master Plan throughout the update process and finds the conclusions to be correct for the future growth of the City of Evans; and

WHEREAS, City Council has reviewed the 2021 Master Plan update and has recommended that it be adopted; and

WHEREAS, City Council has held a public hearing and reviewed the 2021 Master Plan update and finds it to be in the interest of the City of Evans to adopt the updated plan; and

WHEREAS, the Master Plan is an advisory document to guide land development decisions and no part of the Master Plan is legally binding or to be included in Title 18 of the Evans Municipal Code or any other binding part of the Evans Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:

Section 1: The Master Plan is hereby updated and adopted.

Section 2: This Ordinance, after passage shall be numbered, recorded, published and posted as required by the City Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certification of Publication. This Ordinance shall become effective upon passage.

[INTENTIONALLY LEFT BLANK]

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL, 2022.

ATTEST: CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 19th DAY OF APRIL, 2022.

ATTEST: CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

Agenda

City of Evans Master Plan – Work Session

Saturday January 29, 2022

9:00 AM to 1:00 PM

City of Evans Community Complex – Cottonwood Room

Meeting Purpose:

- To share what Staff heard from the community and how the plans address the community’s vision and concerns.
- For the Mayor, City Council, Planning Commission, and the Master Plan Steering Committee to feel they know the plans well and be fully informed during the adoption process.
- To learn from the Mayor, City Council, Planning Commission, and the Master Plan Steering Committee whether there are any changes that need to be made in either plan prior to adoption (tentatively scheduled for 2/15/22).
- To begin transferring ownership of the plans from the project teams to the City and elected officials.
- To celebrate the success of the Master Plan Steering Committee.

9:00 AM **Welcome and Introductions 10 mins**

9:10 AM **Overview 10 mins**

A review of the Master Plan Vision and Values and overview of how the Vision and Values translated into the chapter themes

9:20 AM **Summary Presentation of Key Plan Elements 40 mins**

Master Plan (20 minutes)

- Interactive Vision & Values exercise that shows participants how these foundational elements of the plan relate to the proposed Master Plan strategies

Multi-Modal Transportation Master Plan (20 minutes)

- Community input summary
- Most significant mobility needs
- Brief overview of how MMTMP addresses those needs

10:00 AM **How to Use the Plans 30 mins**

A brief overview of how to use the Master Plan and pursue implementation

- Navigating the Master Plan (15 minutes)
 - Understanding the plan elements including:
 - Future Land Use Map
 - Demographic profile

- Principles/Strategies
- Where to find things
- Identification of specific strategies for the Implementation Exercise
- Transportation Plan (15 minutes)
 - Performance Measures
 - Regional collaboration
 - Informs eligibility for funding

10:30 AM **Break** 15 mins

10:45 AM **Discussion** 75 mins

Participants will engage in interactive activities that are intended to inform them about the plans while providing an opportunity to give Staff feedback

- Master Plan Implementation – White Board Exercise/Workshop
 - How do you use the plan and what are the next steps for implementation?
 - Understanding the different steps to implementing the strategies from the plan.
 - New Policy
 - New Plan
 - New Program
 - New Capital Investment
 - Code or regulatory change
- Multi-Modal Transportation Master Plan
 - Matching top transportation programs/policies with community identified needs
 - Developing descriptions and sketching out potential design concepts for top transportation infrastructure priorities

12:00 PM **Lunch** 50 mins

Participants will have 20 minutes to select a box lunch and take a brief break. Project staff will then host a 30-minute question & answer exercise for participants to share any lingering questions regarding either plan.

12:50 PM **Wrap-up** 10 mins

Staff to report back to participants what was discussed during the work session, ask about changes participants would like in either plan prior to the adoption hearing on February 15, 2022, and to answer any final questions.

CITY COUNCIL AGENDA REPORT

DATE: April 4, 2022

SUBJECT: Consideration of Resolution Number 13-2022 to Update the 2004 Transportation Master Plan and Adopt the 2021 Multi-Modal Transportation Master Plan

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Anne Best Johnson, Community Development Director

ITEM DESCRIPTION:

The purpose of this Agenda Report and the accompanying Resolution is to present the final copy of the 2021 Multi-Modal Transportation Master Plan for adoption. The Multi-Modal Master Plan is a significant component of the overall Community Master Plan and was produced in concert with the Master Plan. This Multi-Modal Master Plan provides a blueprint for trails, transit and vehicular traffic movement within the City of Evans, updates the 2004 Transportation Master Plan and updates the trails component of the 2004 Open Space and Trails Master Plan.

Since the previous plans were adopted, Evans has grown from 15,000 residents to more than 21,000 residents. The City has made, and is continuing to make significant investments in all forms of transportation. The updated plan will serve as a guide for budgeting, project prioritizing and targeting requests for grant-funding.

As a reminder, the City of Evans applied for Multimodal Options Fund grant funding in the 2020 Call for Projects administered by the North Front Range Metropolitan Planning Organization (NFRMPO). The city received a notice of award for a grant of \$150,000. With the city’s local match in the amount of \$15,000 and the \$3,000 contribution from Weld County, the total project budget was \$168,000. The contract to complete the Multi-Modal Master Plan was awarded to Fehr and Peers on August 3, 2020 and work started with the Master Plan Steering Committee in late August, 2020.

The Master Planning Process included several community engagement events. These events provided an opportunity for the consulting teams and staff to hear from the public, to identify pain points, opportunities for improvement, desired amenities, a common vision, and common themes. Public engagement initiatives included surveys, virtual workshops, and open house events. In all, more than 2,000 responses were provided to ensure the outcome of the Master Plans as a community-driven vision. The following public engagement activities were held over the past 20 months for both the Master Plan and the Multi-Modal Master Plan:

- June, 2020 – November, 2021: Master Plan Steering Committee meetings were held twice a month. Each meeting was pre-published with an agenda. The public was encouraged to attend and provide comments for the Committee’s consideration.

-
- August, 2020 – May, 2021: Monthly surveys regarding different themes to the Master Plan were deployed. On average, 100 residents responded to the surveys each month. Each month’s survey was promoted on social media and all who wished to participate were encouraged to do so.
 - Fall, 2020 through Fall, 2021: Work sessions with Planning Commission and City Council were held to discuss each chapter or theme of the Master Plan and the Multi-Modal Transportation Plan. Each work session was published and the public was encouraged to attend and provide comments for the Committee’s consideration.
 - March 25, 2021: CDOT, Envision, GET, Weld County, the Evans Fire Protection District and the Evans Police Department; along with the communities of Kersey, Milliken, Greeley, Gilcrest, LaSalle, Garden City, were invited to participate in a regional planning meeting. The intent of this meeting was to gather input to ensure the Evans’ Multi-Modal Master Plan contained a regional and service-provider oriented vision and set of goals and strategies.
 - November and December, 2021: Virtual workshops were held.
 - May 27, 2021 and August 4, 2021: Community open house events were held. The event on August 4, 2021 was targeted to Spanish-speaking community members. The public was encouraged to attend and provide comments for the Committee’s consideration.
 - September, 2021: Heritage Day station and hands-on interaction with staff
 - September, 2021: Bike-to-work day station and hands-on interaction with staff
 - January 29, 2022: A work session was held with members of City Council, Planning Commissioners and the Master Plan Steering Committee. This work session was published. Representatives from the Town of Milliken attended.
 - February – March, 2022: The draft Master Plans were published on the City’s website. Surrounding communities, Weld County and CDOT were provided an email on March 8 as well as March 30, 2022 inviting participation and feedback.

The Multi-Modal Master Plan was developed alongside the Community Master Plan, but it is an independent document and is being recommended for adoption by City Council by Resolution. The Plan is available on the City’s website and at the following link: [city of evans multi modal master plan 02 01 2022.pdf \(evanscolorado.gov\)](http://cityofevans.com/multi-modal-master-plan-02-01-2022.pdf)

FINANCIAL SUMMARY:

There is no financial implication to the City to adopt the Multi-Modal Master Plan. The action items contained in the Multi-Modal Master Plan are outlined and will be used for capital improvement planning, budgeting purposes, and to scout grant opportunities.

RECOMMENDATION:

Staff is recommending that City Council adopt the Multi-Modal Master Plan the City of Evans for use as a reference, guiding document, and transportation action plan for the community.

SUGGESTED MOTIONS:

“I move to approve Resolution Number 13-2022 as presented to adopt the Multi-Modal Master Plan as a resource and guiding document.”

“I move to deny Resolution Number 13-2022.”

ATTACHMENTS:

- Resolution Number 13-2022
- [city_of_evans_multi_modal_master_plan_02_01_2022.pdf \(evanscolorado.gov\)](#)
- https://www.evanscolorado.gov/sites/default/files/fileattachments/master_plan_update_2020/page/17181/city_of_evans_multi_modal_master_plan_02_01_2022.pdf

CITY OF EVANS, COLORADO

RESOLUTION NO. 13-2022

A RESOLUTION ADOPTING AN UPDATE TO THE 2004 TRANSPORTATION MASTER PLAN AND THE TRAILS PORTION OF THE 2004 OPEN SPACE AND TRAILS MASTER PLAN THROUGH ADOPTION OF THE 2021 MULTI-MODAL TRANSPORTATION PLAN FOR THE CITY OF EVANS, COLORADO

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, State law empowers communities to adopt master plans; and

WHEREAS, the existing Transportation Master Plan was last updated in 2004 and the Trails Master Plan was last updated in 2004; and

WHEREAS, City Council voted to update both the 2004 Transportation Master Plan and the 2004 Trails Master Plan in 2020; and

WHEREAS, significant public engagement and outreach has occurred throughout the process of developing the 2021 Multi-Modal Master Plan update; and

WHEREAS, the Planning Commission, Master Plan Steering Committee and City Council have heard updates to the Multi-Modal Master Plan throughout the update process and finds the conclusions to be correct for the future growth of the City of Evans; and

WHEREAS, City Council has reviewed the 2021 Multi-Modal Master Plan update and has recommended that it be adopted; and

WHEREAS, City Council has held a public meeting and reviewed the 2021 Multi-Modal Master Plan update and finds it to be in the interest of the City of Evans to adopt the updated plan; and

WHEREAS, the Master Plan is an advisory document to guide land development decisions and no part of the Master Plan is legally binding or to be included in Title 18 of the Evans Municipal Code or any other binding part of the Evans Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:

Section 1: The Multi-Modal Master Plan is hereby updated and adopted.

Section 2: This Resolution, after passage shall be numbered, recorded, published and posted as required by the City Charter and the adoption, posting and publication shall be

authenticated by the signature of the Mayor and City Clerk, and by the Certification of Publication. This Resolution shall become effective upon passage.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 4th DAY OF APRIL, 2022.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Brian Rudy, Mayor

CITY COUNCIL AGENDA REPORT

DATE: April 4, 2022

SUBJECT: Consideration of Property Acquisition for 37th Street Widening Project

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Mark Oberschmidt, P.E., City Engineer

ITEM DESCRIPTION:

In 2019, the City began the design of several road projects west of 35th Avenue. These included the widening of 47th Avenue from 2 lanes to a 4-lane arterial road from 37th Street to the City limits and the widening of 37th Street from 35th Avenue to 65th Avenue from 2 lanes to a 4-lane arterial road. The 47th Avenue construction project is nearing completion. The design of phase 1 of the 37th Street widening is complete and the construction project from just west of 47th Avenue to Sienna Avenue is almost ready to advertise for bids. The design of phase 2 (between 35th Avenue and Sienna Avenue) of the 37th Street widening is in progress and should be completed in August 2022, in anticipation of construction in 2024.

As part of the 37th Street Widening project, the City has to purchase ROW along both side of the corridor to provide the needed 110 feet of ROW for an arterial Freedom Parkway road section. The ROW has to be obtained before the City can advertise for bids for Phase 1 as it has the federal funding associated with it.

In addition to the ROW, the City will be renting Temporary Construction Easements (TCEs) on all of the parcels out to the limits of construction for the purposes of staging materials and grading back to the existing grades on the property from the new roadway grades. These TCE areas will be stabilized upon completion of the final grading.

In phase 1 of the project, the City is looking to obtain ROW, PE and TCE property from Mike Wiedeman who owns property along the south side of 37th Street east of 47th Avenue. This property is a working farm. Part of it is within the limits of Phase 1, with the remainder to the east falling within the Phase 2 project limits. Staff and the acquisition consultant team completed the negotiations with Mike Wiedeman and he has accepted the offer.

The other parcel that is ready for acquisition at this time is the Hunziker parcel further east within the Phase 2 project limits. The Hunziker family has accepted the City's offer for that property.

The City worked with Smith Valuations to complete appraisals of the proposed ROW, PE and TCE areas and to then negotiate and prepare the offer and closing documents for the purchases. The City will own the property acquired to become Right of Way. Temporary Construction Easements (TCEs) are only for use until the end of the agreement period at which time all work

should be completed. Refer to the attached exhibits for legal descriptions of the property to be acquired from each parcel. A summary of the proposed offers is provided below for each of the parcels. As part of the agreement, the City will also be paying the closing costs.

Per State statutes, the owners are allowed to get their own appraisal at City expense if they disagree with the City appraisal. Neither of these property owners obtained their own appraisal.

FINANCIAL SUMMARY:

The City has budgeted \$1,500,000 for ROW /PE/TCE Acquisition for this project. A summary of the offers to the property owners is provided below.

- Mike Wiedeman (Ph1) \$ 110,710 plus closing costs
- Mike Wiedeman (Ph2) \$ 2,100 plus closing costs
- Rebecca and Peter Hunziker (Ph 2) \$ 264,650 plus closing costs
- **Subtotal** \$ **377,460 plus closing costs**

- Plus Previous Acquisitions \$ 202,250 plus closing costs
(at 03/01/2022 City Council meeting)
- Current Total \$ 579,710 plus closing costs

- Budget Remaining \$ 920,290 less closing costs

RECOMMENDATION:

Staff recommends the purchase of the property described in this staff report for the prices and conditions herein. Separate motions are recommended for each purchase.

SUGGESTED MOTIONS:

Action #1

“I move to approve the purchase agreement with Mike Wiedeman for property described on the attached documents for phases 1 and 2 of the 37th Street Widening Project in the total amount of \$112,810 plus closing costs, and to authorize the Mayor to sign the purchase agreement and the City Manager to sign all subsequent closing documents to complete the transaction.”

“I move to deny the purchase of the property owned by the Mike Wiedeman.”

Action #2

“I move to approve the purchase agreement with Rebecca & Peter Hunziker for property described on the attached documents for Phase 2 of the 37th Street Widening Project in the amount of \$264,650 plus closing costs and to authorize the Mayor to sign the purchase agreement and the City Manager to sign all subsequent closing documents to complete the transaction.”

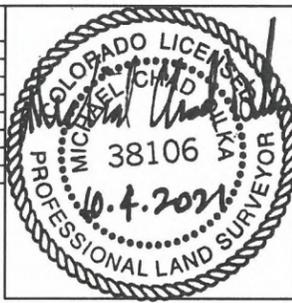
“I move to deny the purchase of the property owned by the Rebecca & Peter Hunziker.”

ATTACHMENTS:

- Mike Wiedeman Ph1 ROW plans
- Mike Wiedeman Ph 2 ROW Exhibit
- Mike Wiedeman Ph 2 TCE Exhibit
- Rebecca & Peter Hunziker Ph 2 ROW Exhibit
- Rebecca & Peter Hunziker Ph 2 TCE Exhibit
- Mike Wiedeman Ph 1 Purchase and Sale Agreement
- Mike Wiedeman Ph 2 Purchase and Sale Agreement
- Peter and Rebecca Hunziker Ph 2 Purchase and Sale Agreement

Colorado Department of Transportation
10601 W. 10th ST.
GREELEY, CO 80631
Phone: 970-350-2152
FAX: 970-350-2178
Region 4 PAH

Table with 3 columns: Sheet Revisions, Date, Description, Initials. All description cells contain 'XXXXXXXX'.

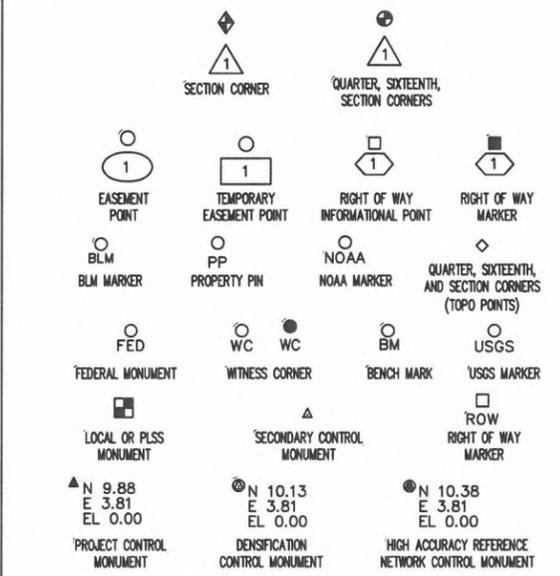


Right of Way Plans
Title Sheet
Project Number: STBG M415-021
Project Location: 37TH STREET
47TH AVENUE TO 35TH AVENUE
Project Code: Last Mod. Date Subset Sheet No.
23049 9-30-2021 1.01 to 1.01 1.01

KING SURVEYORS
650 E. Garden Drive
Windsor, Colorado 80550
phone: (970) 686-5011

DEPARTMENT OF TRANSPORTATION STATE OF COLORADO RIGHT OF WAY PLANS OF PROPOSED CDOT PROJECT NO. STBG M415-021 CDOT PROJECT CODE 23049 37TH STREET WIDENING PHASE I CITY OF EVANS, WELD COUNTY

SURVEYOR STATEMENT (ROW PLAN)
I, Michael Chad Dilka, a professional land surveyor licensed in the State of Colorado, do hereby state to City of Evans that based upon my knowledge, information and belief, the research, calculations and evaluation of the survey evidence were performed and this Right-of-Way Plan was prepared under my responsible charge in accordance with applicable standards of practice defined by Colorado Department of Transportation publications. This statement is not a guaranty or warranty, either expressed or implied.
PLS No. 38106, on behalf of King Surveyors and the Colorado Department of Transportation



R.O.W. Length of Project = ±2624 Feet
Const. Length of Project = ±2900 Feet

On the date this Right-of-Way plan was signed, there exists One (1) monument attempting to monumentalize the Northwest corner of said Section 26 and Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26. For the purposes of this Right-of-Way plan, the North line of the Northwest Quarter (NW1/4) of said Section 26 is defined as shown on the plat of Tuscany-First Filing, recorded March 21, 2000 as Reception No. 2756849 of the records of the Weld County Clerk and Recorder, being currently monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end.

Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end, as bearing North 89°06'23" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2649.12 feet, with all other bearings contained herein relative thereto. The lined dimensions as contained herein are based upon the "U.S. Survey Foot."

- 1. This Right-of-Way Plan is not a boundary survey of the adjoining property and is prepared for City of Evans purposes only.
- 2. For title information, the City of Evans relied on property information binders prepared by Commonwealth Land Title Insurance Company.
- 3. This plan set is subject to change and may not be the most current set. It is the user's responsibility to verify with the City of Evans that this set is the most current. The information contained on the attached drawing is not valid unless this copy bears an original signature of the Professional Land Surveyor hereon named.

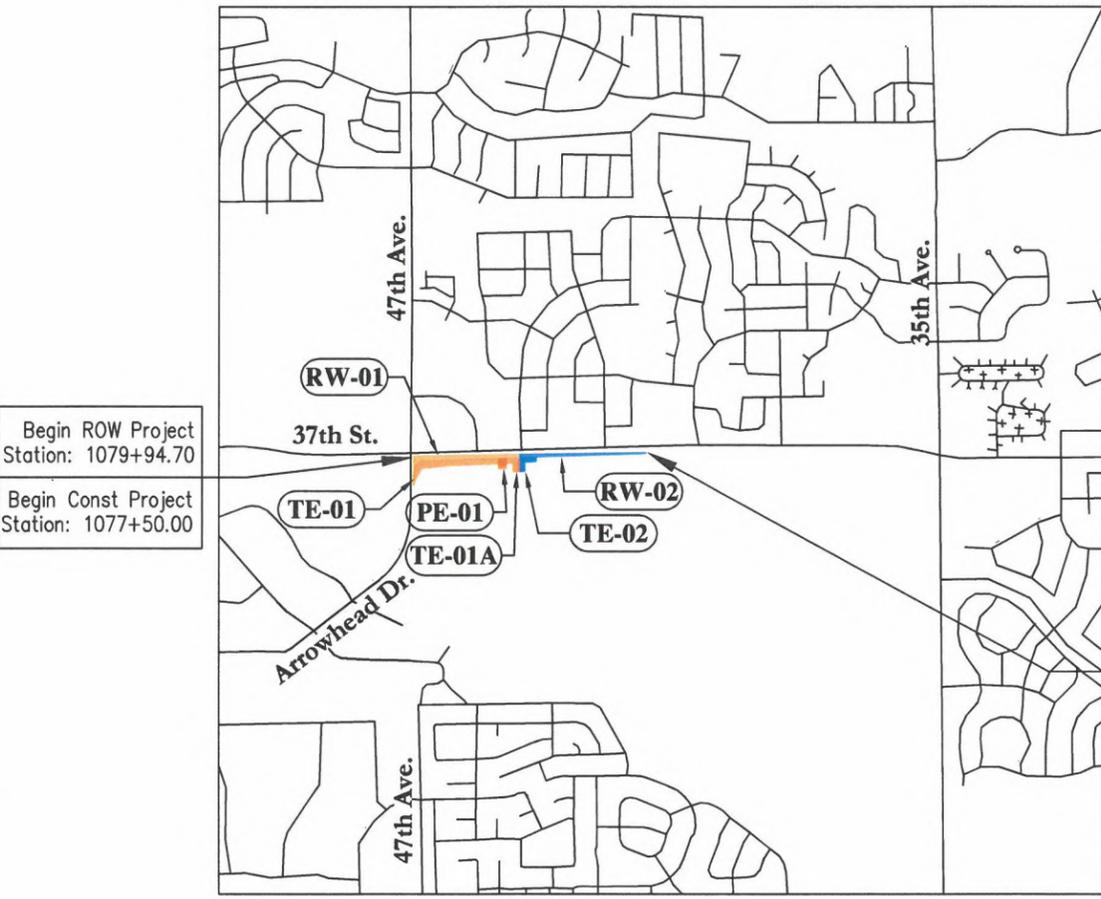
NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

COLORADO DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROJECT
ROW PLANS AUTHORIZED: 10/05/21
DATE
REGION RIGHT OF WAY MANAGER

SHEET NO. INDEX OF SHEETS

1.01	(1)	Title Sheet
2.01	(1)	Tabulation of Properties
3.03 & 4.03	(1)	Project Control Diagram & Land Survey Control Diagram
5.01	(1)	Monumentation Sheets
6.0X	(NA)	Tabulation of Road Approach Sheets
7.01	(1)	Plan Sheets
8.0X	(NA)	Ownership Map-See Map 1.01
	(5)	Total Sheets

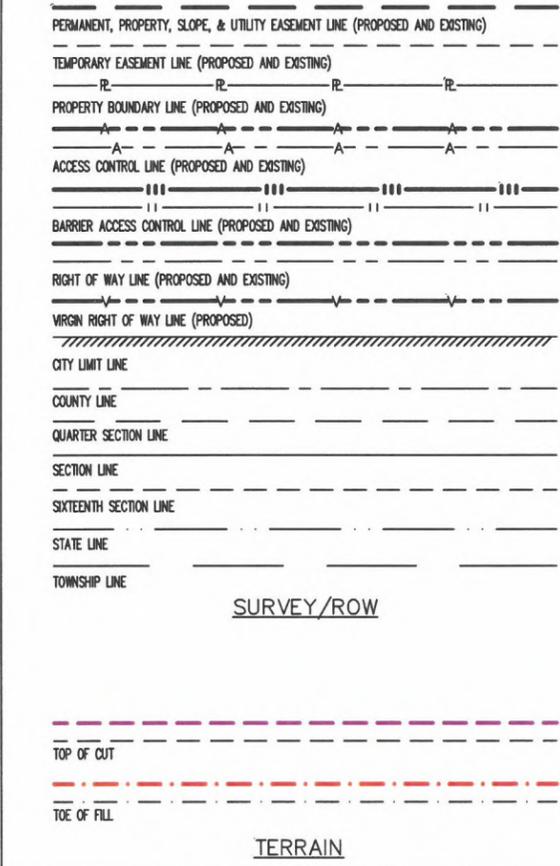
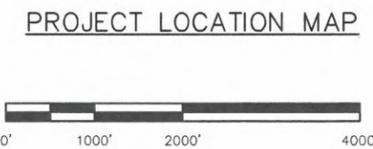
Scales of Original 11"x17" Drawings
Plan Sheets 1"=100'



Begin ROW Project Station: 1079+94.70
Begin Const Project Station: 1077+50.00

End ROW Project Station: 1106+18.79
End Const Project Station: 1106+50.00

Note: For a complete listing of symbology used within this set of plans, please refer to the M-100-1 Standard Symbols of the Colorado Department of Transportation M&S Standards Publication. Existing topo features are shown as screened weight (gray scale). Proposed or new features are shown as full weight without screening, except as noted with the word (proposed).



Reviewed: [Signature] 10/05/21

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King Surveyors LLC, Job No. 20190090

Colorado Department of Transportation
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 FAX: 970-350-2178
 Region 4 PAH

Sheet Revisions			Sheet Revisions			Sheet Revisions		
Date	Description	Initials	Date	Description	Initials	Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX	mm/dd/yy	XXXXXXXX	XXX	mm/dd/yy	XXXXXXXX	XXX



Right of Way Plans
 Tabulation of Properties
 Project Number: STBG M415-021
 Project Location: 37TH STREET
 47TH AVENUE TO 35TH AVENUE
 Project Code: Last Mod. Date Subset Sheet No.
 23049 9-30-2021 2.01 to 2.01 2.01

KING SURVEYORS
 650 E. Garden Drive
 Windsor, Colorado 80550
 phone: (970) 686-5011

R.O.W. TABULATION OF PROPERTIES IN THE CITY OF EVANS 37TH STREET

Parcel No.	Ownership Name Mailing Address City, State Zip	County Parcel Id Site Address	Sec. Twn, Rng	Area Of Parcel	Whole Property (WP) Sq Ft/Acre per Assessor	Existing ROW	Net Area (RL+RR)	WP Remainder Left (RL) of Project Alignment	WP Remainder Right (RR) of Project Alignment	Weld County Purchase Reception No. Date	Title Commitment Company and Commitment No.	Purpose of Parcel								
													Area In Square Feet (do not add alpha letters below)				Area In Acres (do not add alpha letters below)			
RW-01	TUSCANY PARCEL 3 LLLP 1560 S. MONROE STREET DENVER, CO 80210	95926200012 VACANT LAND EVANS, CO 80620	NW1/4 SECTION 26 T.5N., R.66W.	40,714 0.935	1,694,919 38.9							Permanent roadway widening & associated appurtenances To the City of Evans								
TE-01	same as above			44,613 1.024								Activities associated with roadway construction To the City of Evans								
TE-01A	same as above			8,765 0.201								Activities associated with roadway construction To the City of Evans								
PE-01	same as above			6,192 0.142								Permanent easement associated with roadway construction To the City of Evans								
RW-02	WIEDEMAN, MICHAEL L. 3120 55TH AVENUE GREELEY, CO 80634	95926200011 4350 W. 37TH STREET EVANS, CO 80537	NW1/4 SECTION 26 T.5N., R.66W.	18,006 0.413	3,279,197 75.3							Permanent easement for the installation and maintenance of drainage facilities To the City of Evans								
TE-02	same as above			8,741 0.201								Activities associated with roadway construction To the City of Evans								

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King Surveyors LLC, Job No. 20190090

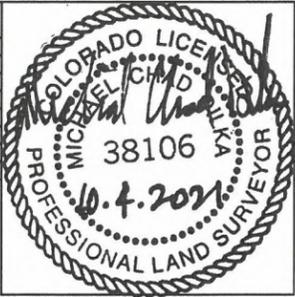
Colorado Department of Transportation
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Region 4 PAH

Sheet Revisions		
Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

Sheet Revisions		
Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

Sheet Revisions		
Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX



Preliminary Land Survey Control Diagram		
Plan Sheet		
Project Number: STBG M415-021		
Project Location: 37TH STREET		
47TH AVENUE TO 35TH AVENUE		
Project Code:	Last Mod. Date:	Sheet No.:
23049	9-30-2021	3.03 & 4.03

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Windsor, Colorado 80550
phone: (970) 686-5011

WEST QUARTER CORNER
SECTION 23, T.5N., R.66W.
FOUND 3 1/4" ALUMINUM CAP
ON #6 REBAR, LS 22098, 1994
IN MONUMENT BOX

**SW 1/4
SECTION 23
T.5N., R.66W.**

FOUND 2 1/2" ALUMINUM CAP
ON #6 REBAR, PLS 28285, 1999
IN MONUMENT BOX

NORTHWEST CORNER
SECTION 26, T.5N., R.66W.
FOUND 2 1/2" ALUMINUM CAP
ON #6 REBAR, PLS 37947, 2006
IN MONUMENT BOX

**NW 1/4
SECTION 26
T.5N., R.66W.**

NORTH QUARTER CORNER
SECTION 26, T.5N., R.66W.
FOUND 2 1/2" ALUMINUM CAP
ON #6 REBAR, LS 38175, 2016

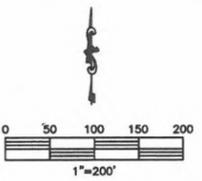
WEST QUARTER CORNER
SECTION 26, T.5N., R.66W.
FOUND 2 1/2" ALUMINUM CAP
ON #6 REBAR, PLS 28656, 1995

CENTER QUARTER CORNER
SECTION 26, T.5N., R.66W.
FOUND 3 1/4" ALUMINUM CAP
ON #6 REBAR, LS 22098, 2007

On the date this Right-of-Way plan was signed, there exists One (1) monument attempting to monumentalize the Northwest corner of said Section 26 and Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26. For the purposes of this Right-of-Way plan, the North line of the Northwest Quarter (NW1/4) of said Section 26 is defined as shown on the plat of Tuscany-First Filing, recorded March 21, 2000 as Reception No. 2756849 of the records of the Weld County Clerk and Recorder, being currently monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end.

Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end, as bearing North 89°06'23" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2649.12 feet, with all other bearings contained herein relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."



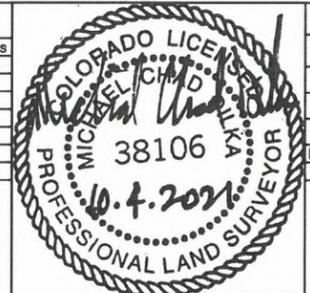
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King Surveyors LLC, Job No. 20190090

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Sheet Revisions tables with columns: Date, Description, Initials



Right of Way Plans
Monumentation Sheet
Project Number: STBG M415-021
Project Location: 37TH STREET
47TH AVENUE TO 35TH AVENUE
Project Code: Last Mod. Date Subset Sheet No.
23049 9-30-2021 5.01 to 5.01 5.01

SURVEYOR STATEMENT FOR THE CALCULATED POSITIONS OF ROW POINTS
I, Michael Chad Dilka, a professional land surveyor licensed in the State of Colorado, do hereby state to City of Evans that based upon my knowledge, information and belief, the research and evaluation of the survey evidence were performed and the calculated positions of these R.O.W. points were prepared under my responsible charge in accordance with applicable standards of practice defined by Colorado Department of Transportation publications. This statement is not a guaranty or warranty, either expressed or implied.
PLS No. 38106, on behalf of King Surveyors and the Colorado Department of Transportation

NOTICE: According to Colorado law you must commence any 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.

FOUND ALIQUOT MONUMENT COORDINATE TABLE (PROJECT COORDINATES)

Table with columns: Point No., Northing (ft), Easting (ft), Description, Monument

PROJECT COORDINATE TABLE

Table with columns: Point, Project Coordinates (Northing, Easting), Elevation (ft) NAVD88, Description

TABULATION OF RIGHT-OF-WAY MONUMENTS TO BE SET (PROJECT COORDINATES)

Table with columns: Point No., Northing (ft), Easting (ft), Description, Station, Offset

TABULATION OF FOR INFORMATION ONLY POINTS (PROJECT COORDINATES)

Table with columns: Point No., Northing (ft), Easting (ft), Description, Station, Offset

QUANTITY OF MONUMENTS TO BE SET

Table with columns: CAP TYPE, MONUMENT TYPE (1-6), REFERENCE, ROW, CONTROL, ALIQUOT CORNER, PERMANENT EASEMENT, PROJECT POINTS, WITNESS POST (REQUIRED)

General Notes:

- 1. All centerline and offset stationing may not represent the centerline as constructed in the field.
2. Refer to the M-629-1 Survey Monuments of the Standard Plans found in The Colorado Department of Transportation, M & S Standards for survey monument descriptions.
3. This plan set is subject to change and may not be the most current set. It is the user's responsibility to verify with the City of Evans that this set is the most current. The information contained on the attached drawing is not valid unless this copy bears an original signature of the Professional Land Surveyor hereon named.
COORDINATE DATUM: Project coordinates are Colorado State Plane, North Zone, NAD 83/2011 coordinates that have been scaled to ground using a combined factor of 1.00026824 about an origin of 0,0.
Project Coordinates Northing US Survey Feet = (State Plane Coordinate Northing * 1.00026824). Scale about an origin of 0,0.
Project Coordinates Easting US Survey Feet = (State Plane Coordinate Easting * 1.00026824). Scale about an origin of 0,0.
BENCHMARK: City of Evans Benchmark KSI-2 Elevation=4784.02' NAVD1988

TABULATION OF TEMPORARY EASEMENT POINTS TO BE STAKED (PROJECT COORDINATES)

Table with columns: Point No., Northing (ft), Easting (ft), Description, Station, Offset

TABULATION OF PERMANENT EASEMENT POINTS TO BE STAKED (PROJECT COORDINATES)

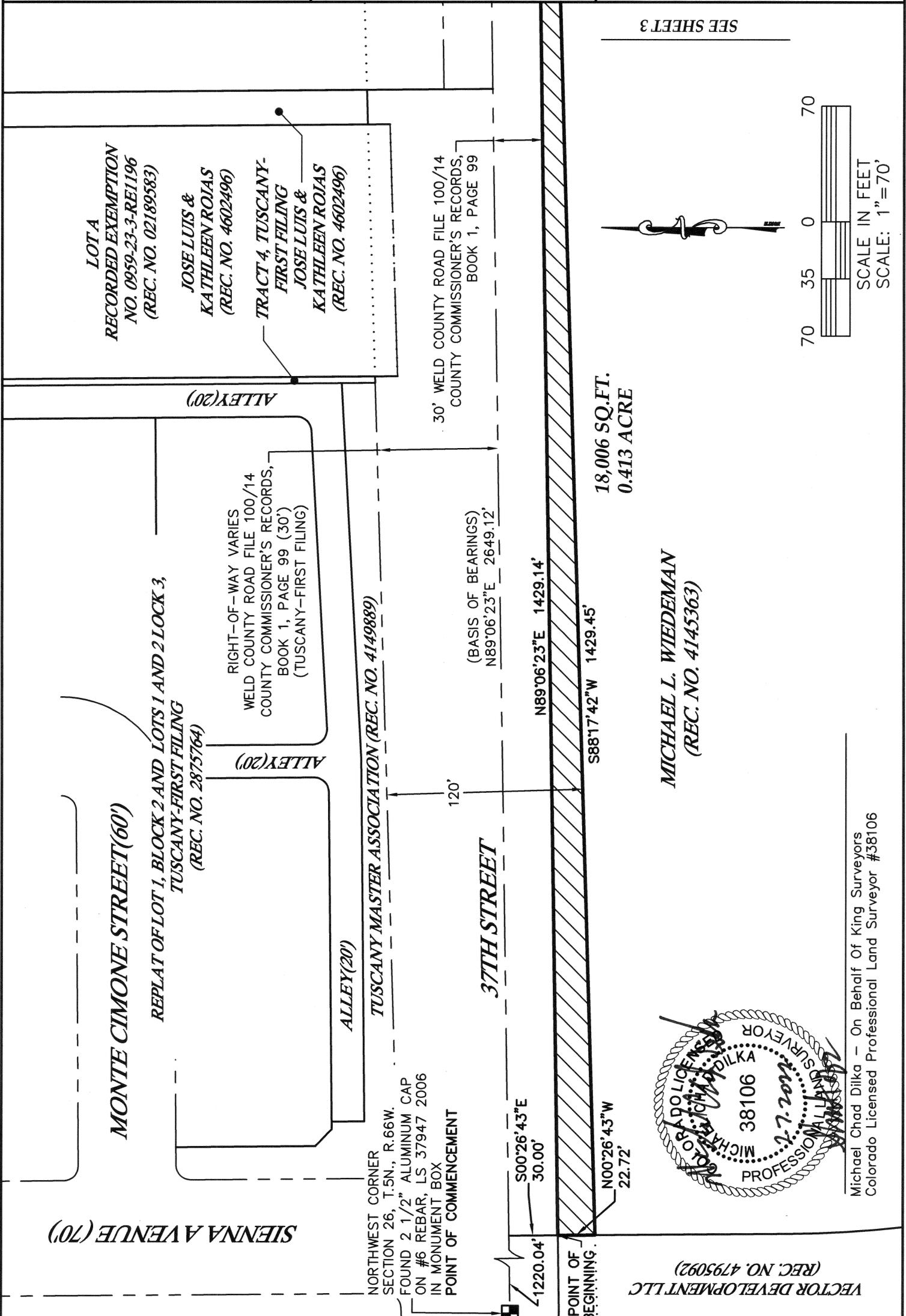
Table with columns: Point No., Northing (ft), Easting (ft), Description, Station, Offset

SURVEYOR STATEMENT FOR SET R.O.W. MONUMENTS

I, _____, a professional land surveyor licensed in the State of Colorado, do hereby state to the City of Evans that based upon my knowledge, information and belief, adequate research and evaluation of survey evidence were performed and the Right-of-way monuments depicted on this Right-of-way Plan WERE SET under my responsible charge and the field survey was performed in accordance with applicable standards of practice defined by Colorado Department of Transportation publications. This statement is not a guaranty or warranty, either expressed or implied.
PLS No. _____, on behalf of _____ and the Colorado Department of Transportation

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King Surveyors LLC, Job No. 20190090



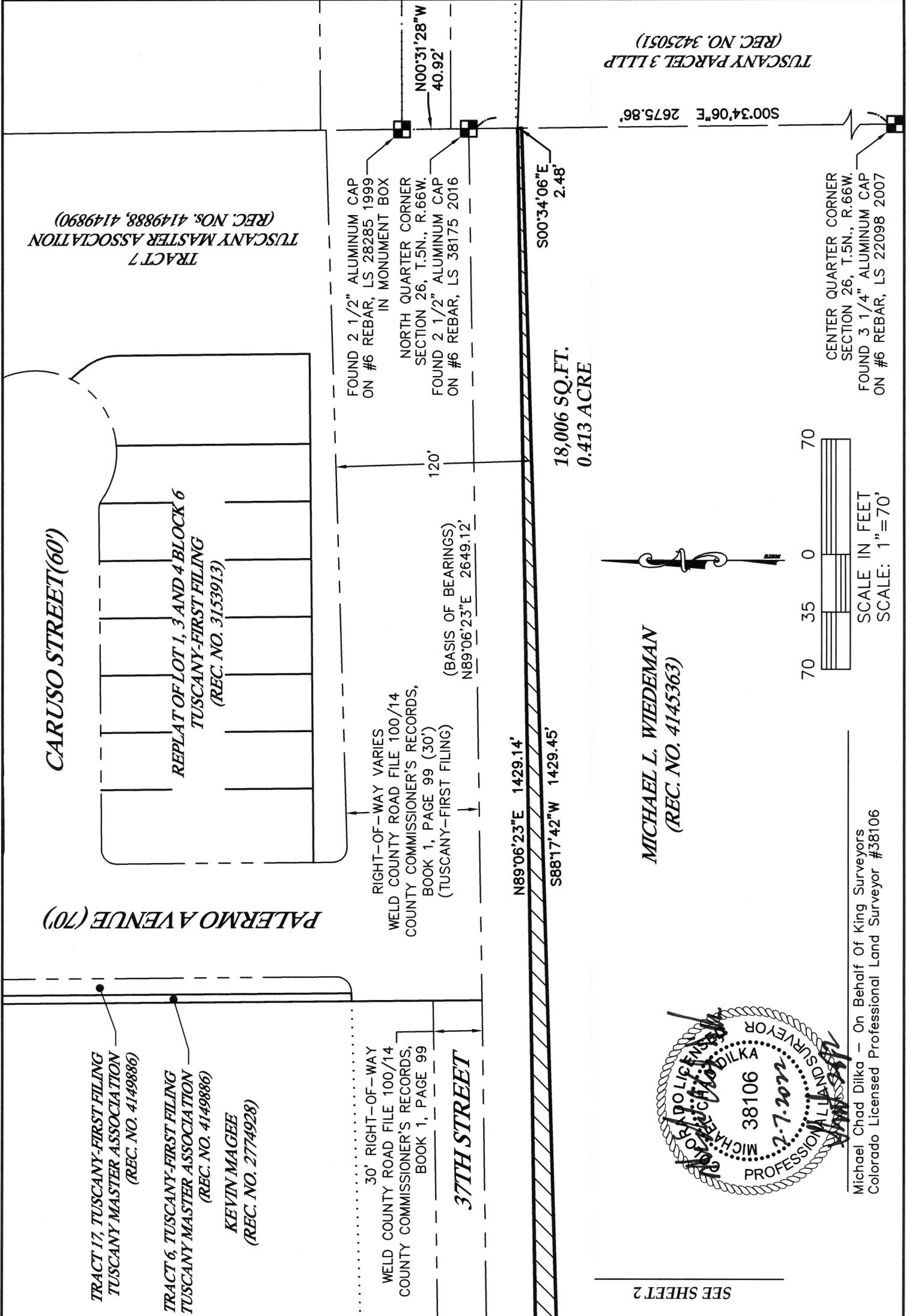
NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
email: contact@KingSurveyors.com

PROJECT NO: 20190090
DATE: 2/4/2022
CLIENT: ROCKSOL
DWG: ROW-WIEDEMAN-M
DRAWN: SMF CHECKED:



NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



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email: contact@KingSurveyors.com

PROJECT NO:20190090
DATE: 2/4/2022
CLIENT: ROCKSOL
DWG: ROW-WIEDEMAN-MICHAEL
DRAWN: SMF CHECKED:

MONTE CIMONE STREET(60')

REPLAT OF LOT 1, BLOCK 2 AND LOTS 1 AND 2 LOCK 3, TUSCANY-FIRST FILING (REC. NO. 2875764)

TUSCANY SECOND FILING

SIENNA AVENUE (70')

RIGHT-OF-WAY VARIES WELD COUNTY ROAD FILE 100/14 COUNTY COMMISSIONER'S RECORDS, BOOK 1, PAGE 99 (30') (TUSCANY-FIRST FILING)

ALLEY(20')

FOUND 2 1/2" ALUMINUM CAP ON #6 REBAR, LS 28285 1999 IN MONUMENT BOX

ALLEY(20')

TUSCANY MASTER ASSOCIATION (REC. NO. 4149889)

NORTHWEST CORNER SECTION 26, T.5N., R.66W. FOUND 2 1/2" ALUMINUM CAP ON #6 REBAR, LS 37947 2006 IN MONUMENT BOX POINT OF COMMENCEMENT

N00°31'28"W 40.92'

NORTH QUARTER CORNER SECTION 26, T.5N., R.66W. FOUND 2 1/2" ALUMINUM CAP ON #6 REBAR, LS 38175 2016

37TH STREET

(BASIS OF BEARINGS) N89°06'23"E 2649.12'

1220.04'

S00°26'43"E 52.72'

N88°17'42"E 192.37'

S01°42'55"E 23.94'

POINT OF BEGINNING

30' WELD COUNTY ROAD FILE 100/14 COUNTY COMMISSIONER'S RECORDS, BOOK 1, PAGE 99

N00°26'43"W 118.49'

S88°17'40"W 155.00'

8,741 SQ.FT. 0.201 ACRE

S01°42'15"E 105.99'

Δ=0°57'58" ChB=N0°55'43"W ChL=10.96' R=650.00' L=10.96'

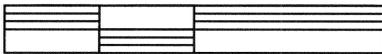
S89°01'37"W 40.12'

MICHAEL L. WIEDEMAN (REC. NO. 4145363)

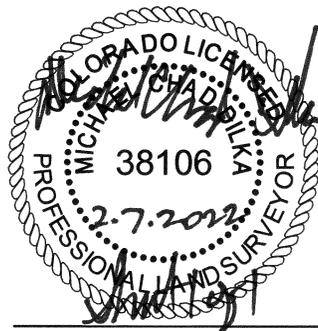
VECTOR DEVELOPMENT LLC (REC. NO. 4795092)



70 35 0 70



SCALE IN FEET SCALE: 1"=70'



Michael Chad Dilka - On Behalf Of King Surveyors Colorado Licensed Professional Land Surveyor #38106

NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550 phone: (970) 686-5011 | fax: (970) 686-5821 email: contact@KingSurveyors.com

PROJECT NO:20190090 DATE: 2/4/2022 CLIENT: ROCKSOL DWG: TCE-WIEDEMAN-DRAWN: SMF CHECKED

**EXHIBIT A
(1 OF 2)
PROPERTY DESCRIPTION**

A parcel of land, being part of the Northeast Quarter (NE1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26 and Three (3) monuments attempting to monumentalize the Northeast corner of said Section 26. For the purposes of this property description, the North line of the Northeast Quarter (NE1/4) of said Section 26 is defined as shown on the plat of Ashcroft Heights First Filing, recorded October 1, 1999 as Reception No. 2724127 of the records of the Weld County Clerk and Recorder, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends;

COMMENCING at the North Quarter (N1/4) corner of said Section 26, as defined above, and assuming the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends, as bearing North 89°51'08" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 3314.68 feet, with all other bearings contained herein relative thereto:

THENCE North 89°51'08" East along the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, a distance of 2279.22 feet to the Northerly extension of the West line of the Subdivision Exemption Lot, Subdivision Exemption No. 0959-26-1 SUBX15-0002, recorded May 14, 2015 as Reception No. 4107119 of the records of the Weld County Clerk and Recorder, said point being the **POINT OF BEGINNING**;

THENCE continuing North 89°51'08" East along the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, a distance of 507.98 feet to the Northerly extension of the East line of said Subdivision Exemption Lot;

THENCE South 00°15'57" East along the Northerly extension of the East line and along the East line of said Subdivision Exemption Lot a distance of 97.08 feet to the beginning point of a curve, said curve being non-tangent to aforesaid line;

THENCE along the arc of said curve, which is concave to the South, a distance of 508.45 feet to the West line of said Subdivision Exemption Lot, said curve having a radius of 5875.00 feet, a central angle of 04°57'31" and a long chord bearing North 86°36'59" West a distance of 508.29 feet;

THENCE North 00°53'38" West along the West line of said Subdivision Exemption Lot, and the Northerly extension thereof, a distance of 65.77 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 39,463 sq. ft. or 0.906 acre, more or less (±); the North Thirty (30) feet of said described parcel of land contains 15,235 sq. ft. or 0.350 acre, which may be considered to be existing Right-of-way (See Weld County road file 100/14 and Book 1, Page 99 of the County Commissioner's records); said described parcel of land may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYORS STATEMENT

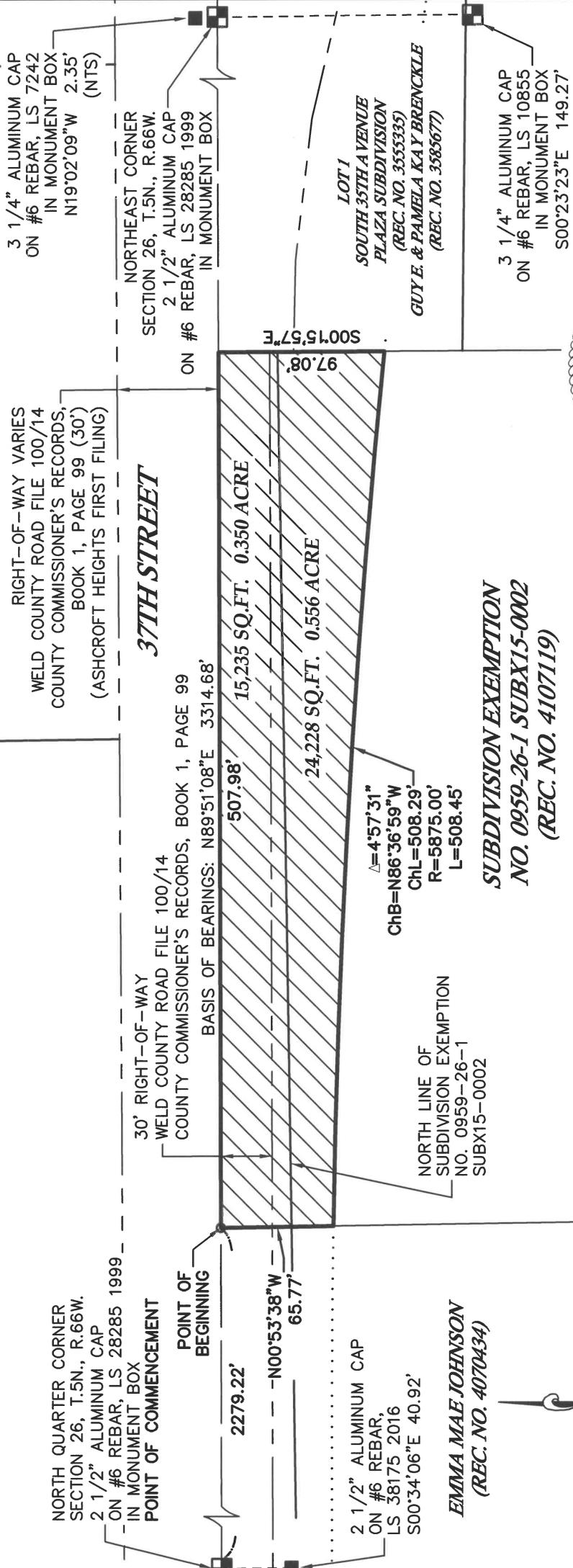
I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106
KING SURVEYORS, 650 East Garden Drive, Windsor, Colorado 80550, (970) 686-5011
JN: 20190090

TRACT H
ASHCROFT HEIGHTS INVESTMENT LLC
(REC. NO. 2702901)

PORTION OF TRACT I
ASHCROFT HEIGHTS FIRST FILING REPLAT C
(REC. NO. 3061573)



Michael Chad Dilka - On Behalf Of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

PETER & REBECCA HUNZIKER (1%)
LEGACY HOLDINGS TRUST 10,
DATED MARCH 31, 2017 (99%)
(REC. NO. 4413874)

SUBDIVISION EXEMPTION
NO. 0959-26-1 SUBX15-0002
(REC. NO. 4107119)

NORTH LINE OF
SUBDIVISION EXEMPTION
NO. 0959-26-1
SUBX15-0002



GARY W. WIEDEMAN
(REC. NO. 4142290)

NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
email: contact@KingSurveyors.com

PROJECT NO: 20190090
DATE: 12/29/2021
CLIENT: ROCKSOL
DWG: ROW-HUNZIKER+LEGACY_R3
DRAWN: SMF CHECKED: M
Page 256

**EXHIBIT A
(1 OF 2)
PROPERTY DESCRIPTION**

A parcel of land, being part of the Northeast Quarter (NE1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26 and Three (3) monuments attempting to monumentalize the Northeast corner of said Section 26. For the purposes of this property description, the North line of the Northeast Quarter (NE1/4) of said Section 26 is defined as shown on the plat of Ashcroft Heights First Filing, recorded October 1, 1999 as Reception No. 2724127 of the records of the Weld County Clerk and Recorder, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends;

COMMENCING at the North Quarter (N1/4) corner of said Section 26, as defined above, and assuming the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends, as bearing North 89°51'08" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 3314.68 feet, with all other bearings contained herein relative thereto:

THENCE North 89°51'08" East along the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, a distance of 2279.22 feet to the Northerly extension of the West line of the Subdivision Exemption Lot, Subdivision Exemption No. 0959-26-1 SUBX15-0002, recorded May 14, 2015 as Reception No. 4107119 of the records of the Weld County Clerk and Recorder;

THENCE South 00°53'38" East along said Northerly extension of the West line and along the West line of said Subdivision Exemption Lot a distance of 65.77 feet to the beginning point of a curve, said curve being non-tangent to aforesaid line, said point being the **POINT OF BEGINNING**;

THENCE along the arc of said curve, which is concave to the South, a distance of 508.45 feet to the East line of said Subdivision Exemption Lot, said curve having a radius of 5875.00 feet, a central angle of 04°57'31" and a long chord bearing South 86°36'59" East a distance of 508.29 feet;

THENCE South 00°15'57" East along the East line of said Subdivision Exemption Lot a distance of 22.56 feet;

THENCE North 83°04'27" West a distance of 225.68 feet;

THENCE South 04°59'00" West a distance of 43.02 feet;

THENCE North 88°04'45" West a distance of 36.28 feet;

THENCE North 26°03'56" West a distance of 16.06 feet;

THENCE North 33°18'38" West a distance of 39.78 feet;

THENCE South 89°42'52" West a distance of 102.82 feet;

THENCE South 02°00'23" West a distance of 55.00 feet;

THENCE South 89°19'33" West a distance of 46.97 feet;

THENCE North 01°32'42" East a distance of 60.00 feet;

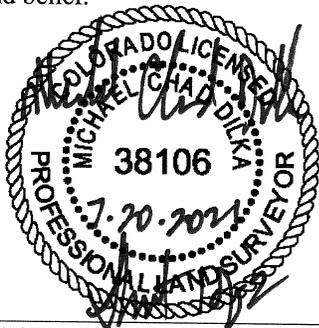
THENCE North 89°35'13" West a distance of 64.26 feet to the West line of said Subdivision Exemption Lot;

THENCE North 00°53'38" West along the West line of said Subdivision Exemption Lot a distance of 14.91 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 13,341 sq. ft. or 0.306 acre, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYORS STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 20190090

LINE TABLE		
LINE	BEARING	LENGTH
L4	N01°32'42"E	60.00'
L5	N89°35'13"W	64.26'
L6	N00°53'38"W	14.91'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°15'57"E	22.56'
L2	S89°42'52"W	102.82'
L3	S02°00'23"W	55.00'

PORTION OF TRACT 1
ASHCROFT HEIGHTS FIRST FILING REPLAT C
 (REC. NO. 3061573)

NORTH QUARTER CORNER
 SECTION 26, T.5N., R.66W.
 2 1/2" ALUMINUM CAP
 ON #6 REBAR, LS 28285 1999
 IN MONUMENT BOX
POINT OF COMMENCEMENT

NORTH LINE OF
 SUBDIVISION EXEMPTION
 NO. 0959-26-1
 SUBX15-0002

(BASIS OF BEARINGS)
 N89°51'08"E 3314.68'

∠=4°57'31"
 ChB=S86°36'59"E
 ChL=508.29'
 R=5875.00'
 L=508.45'

POINT OF BEGINNING
 2 1/2" ALUMINUM CAP
 ON #6 REBAR,
 LS 38175 2016
 S00°34'06"E 40.92'

EMMA MAE JOHNSON
 (REC. NO. 4070434)

TRACT H
ASHCROFT HEIGHTS INVESTMENT LLC
 (REC. NO. 2702901)

RIGHT-OF-WAY VARIES
 WELD COUNTY ROAD FILE 100/14
 COUNTY COMMISSIONER'S RECORDS,
 BOOK 1, PAGE 99 (30')
 (ASHCROFT HEIGHTS FIRST FILING)

NORTHEAST CORNER
 SECTION 26, T.5N., R.66W.
 2 1/2" ALUMINUM CAP
 ON #6 REBAR, LS 28285 1999
 IN MONUMENT BOX

3 1/4" ALUMINUM CAP
 ON #6 REBAR, LS 7242
 IN MONUMENT BOX
 N19°02'09"W 2.35'
 (NTS)

37TH STREET

LOT 1

**SOUTH 35TH AVENUE
 PLAZA SUBDIVISION**
 (REC. NO. 3555335)
GUYE. & PAMELA KAY BRECKCKLE
 (REC. NO. 3585677)

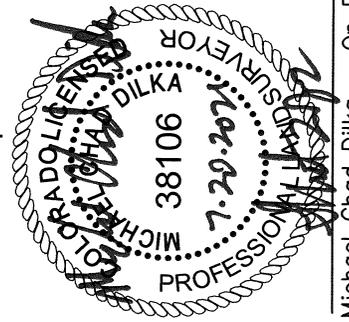
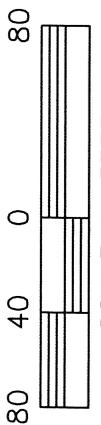
3 1/4" ALUMINUM CAP
 ON #6 REBAR, LS 10855
 IN MONUMENT BOX
 S00°23'23"E 149.27'

13,341 SQ.FT.
 0.306 ACRE

SUBDIVISION EXEMPTION
 NO. 0959-26-1 SUBX15-0002
 (REC. NO. 4107119)

PETER & REBECCA HUNZIKER (1%)
LEGACY HOLDINGS TRUST 10,
DATED MARCH 31, 2017 (99%)
 (REC. NO. 4413874)

GARY W. WIEDEMAN
 (REC. NO. 4142290)



Michael Chad Dilka - On Behalf Of King Surveyors
 Colorado Licensed Professional Land Surveyor #38106

NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
 phone: (970) 686-5011 | fax: (970) 686-5821
 email: contact@KingSurveyors.com

PROJECT NO: 20190090
 DATE: 7/19/2021
 CLIENT: ROCKSOL
 DWG: TCE-HUNZIKER-
 DRAWN: SMF CHECKE

AN AGREEMENT FOR THE SALE AND PURCHASE OF REAL ESTATE BY AND BETWEEN **Michael Wiedeman** AND THE CITY OF EVANS COLORADO.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1.0 PARTIES AND PROPERTY.

1.1 The parties to this Agreement are The City of Evans, Colorado, ("City") and **Michael Wiedeman** (the "Seller") and collectively, the "Parties," or individually, a "Party."

1.2 The Seller agrees to sell and City agrees to purchase and receive the real estate, together with all improvements, as described in Exhibit A, hereinafter referred to as the "Property," situate in the County of Weld, State of Colorado.

1.3 Additionally, the Seller shall provide to the City a temporary construction easement for the right to use the area demonstrated by Exhibit B, known as the Temporary Construction Easement as for the purpose of construction access, cut and fill slopes and drainage and reconstruction of an existing road.

2.0 PURCHASE PRICE AND TERMS. The Property consists of 18,006 square feet, more or less to be purchased for a total purchase price of **ONE HUNDRED TEN THOUSAND SEVEN HUNDRED TEN DOLLARS** (\$110,710.00) and other good and valuable consideration as set forth in the terms of this Purchase Agreement, payable to the Seller in cash or certified funds, delivered to Seller at closing, subject to closing adjustments as provided in this Agreement, and further subject to all terms and conditions hereof.

2.1 At Closing, Seller shall execute and deliver to City a General Warranty Deed for possession of the Property described on Exhibit A, which shall include all of the surface estates which are owned by Seller (except such reservations and easements not owned by Seller as shown in the title commitment) conveying said Property free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, and easements.

2.2 At Closing, Seller shall execute and deliver to City a Temporary Easement Deed for use of construction access, cut and fill slopes, and drainage and reconstruction of an existing road, as described on Exhibit B.

2.3 Seller shall pay all personal property taxes due for the year of closing and all preceding years, if any. General property taxes for the year of closing shall be apportioned between the Parties to the date of delivery of deed; however, Seller shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

2.4 Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, which materially impacts the City's intended use of the Property, from the date of this Agreement until the conveyance of said Property from Seller to City, shall be at the risk of Seller. If, prior to closing, said Property is destroyed or damaged in whole or in part, this Agreement may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this Agreement despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price.

2.5 Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

2.6 Seller represents and covenants to City that it comprises all of the parties who have a fee interest in said Property described in Exhibit A, and that it has full and lawful authority to enter into this Agreement.

3.0 SELLER'S ADDITIONAL WARRANTIES. Seller represents and warrants to the City that as of the date hereof, and as of the date of the Closing, that the following are true and correct to the best of its knowledge:

3.1 The Seller has received no notice of and has no other knowledge of any litigation, claim, or proceeding, pending or currently threatened, which in any manner affects the Property nor does the Seller know of any ground for any such litigation, proceedings or investigations; and

3.2 The Seller has received no notice and has no other knowledge of any current or existing violation of any federal, state, or local law, code, ordinance, rule, regulation, or requirement affecting the property; and

3.3 The Seller has the full right, power, and authority to transfer and convey the Property to the City as provided in this Agreement and to carry out the Seller's obligations under this Agreement; and

3.4 Each and every document, schedule, item, and other information delivered or to be delivered by the Seller to the City hereunder or made available to the City for inspection hereunder shall be true, accurate, and correct; and

3.5 The Seller has not entered into any agreements with any private persons or entity or with any governmental or quasi-governmental entity with respect to the Property that may result in liability or expenses to the City upon the City's acquisition of all or any portion of the Property; and

3.6 There are no special assessments that now burden or encumber the Property and there are no special assessments currently proposed as to the Property; and

3.7 The execution and delivery of this Agreement and the performance of all of the obligations of the Seller hereunder will not result in a breach of or constitute a default under any agreement entered into by the Seller or under any covenant or restriction affecting the Property; and

3.8 There are no leases, tenancies, or rental agreements relating to the Property or to any part thereof that cannot be terminated by the Seller on or prior to the date of closing of the transactions provided in the Agreement; and

3.9 The Seller has not granted or created and has no knowledge of any third parties who may have the right to claim or assert any easement, right-of-way, or claim of possession not shown by record, whether by grant, prescription, adverse possession, or otherwise as to any part of the property; and

3.10 To the best of the Seller's knowledge, no part of the Property has ever been used as a landfill, and no materials have ever been stored or deposited upon the Property that would under any applicable governmental law or regulation require that the Property be treated or materials removed from the Property prior to the use of the Property for any purpose that would be permitted by law but for the existence of said materials on the Property; and

3.11 To the best of the Seller's knowledge, no underground storage tank, as that term is defined by federal statute or Colorado statute, is located on the Property which under applicable governmental regulation requires such underground storage tank to be upgraded, modified, replaced, closed, or removed, and

3.12 To the best of the Seller's knowledge, the Property is not in violation of any federal, state or local law, ordinance or regulations relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions. Neither Seller, nor to the Seller's knowledge any third party, has used, generated, manufactured, refined, produced, processed, stored or disposed of on, or under the Property or transported to or from the Property any Hazardous Materials nor does Seller intend to use the Property prior to closing date for the purpose of generating, manufacturing, refining, producing, storing, handling, transferring,

processing or transporting Hazardous Materials. For the purposes hereof, Hazardous Materials shall mean any flammable explosive, radioactive materials, asbestos, petroleum, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or released materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous material" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 § U.S.C. § 9601 *et seq.*, the Hazardous Materials Transportation Act of 1975, as amended, 49 U.S.C. § 5101, *et seq.*, the Resource Conservation and Recovery Act, as amended, 42, U.S.C. § 6901, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of governmental authority regulating, relating to or imposing liability or standard of conduct concerning any hazardous, toxic or dangerous substance or material, as now or at any time hereafter in effect, and in the regulation adopted, published and/or promulgated pursuant to said laws; and

3.13 The Seller has no knowledge of any claims or purported claims or adverse possession pertaining to the Property of any land adjacent thereto by reason of the location of any exterior boundary fence lines or otherwise.

The Seller shall, at the time of closing, certify to the City in writing that the above and foregoing representations and warranties remain true and correct as of the date of Closing.

4.0 INSPECTION AND ENVIRONMENTAL AUDIT.

4.1 At all reasonable times during the term of this Agreement, the City, and the City's employees, agents and contractors shall have access to the Property for the purpose of conducting tests, studies and surveys thereon, including, without limitation, environmental audits, and soil and subsoil tests. The City may have performed at its option and expense the following inspections: (a) Soil and percolation tests; (b) inspections for asbestos, PCB's, underground tanks, or other hazardous substances; and (c) any other tests or studies deemed necessary by the City.

4.2 The City shall promptly provide to the Seller copies of the results of all such tests, inspections, and studies following the receipt of same by the City. The City may at its sole expense obtain a Phase I and/or Phase II environmental audit of the Property. In the event the City is not satisfied with the conditions of the Property for any reason or the Site Development Plan and associated development agreements are not approved by City Council and the developer has not proceeded to the development of the project pursuant to the terms of said Site Development Plan and associated development agreements, the City may terminate this Agreement by written notice to Seller pursuant to Section 7.0 of this Agreement.

5.0 TERMS TO SURVIVE CLOSING. The Parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the Closing herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

6.0 TITLE. City shall obtain a commitment for a title insurance policy to be issued by a title insurance company satisfactory to City. In the event the commitment for title insurance shows that Seller does not have good and merchantable fee simple title to said Property or is not the sole Seller of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Seller, the Seller, at its cost, shall obtain a release and/or conveyance to City of any rights or interests identified in title commitment or by other investigation; provided, however, CITY may, at its option, satisfy such liens or encumbrances, clear any easements or other rights or interests which are in conflict with this conveyance.

6.1 If the Seller, by General Warranty deed is unable or unwilling to convey good and merchantable title to City, then notwithstanding any provision hereof to the contrary, City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Seller to clear the title to and General Warranty deed for the Property as provided herein, (b) proceed with this Agreement and waive any defects in title which City, in its sole discretion, determines can be waived; (c) any combination of (a) and (b), above; or (c) bring an action against Seller for specific performance or damages, or both and the prevailing Party shall be entitled to costs and reasonable attorney's fees against the non-prevailing Party for its failure to perform hereunder.

7.0 REVIEW PERIOD – RIGHT TO TERMINATE. In the event the City's review of the status of title to the Property or the condition of the Property or any other matter causes the City to conclude that the Property is unsatisfactory to the City for any reason whatsoever, the City may, upon written notice to Seller via facsimile or hand delivery, delivered no later than 5:00 p.m. 24 hours before the Closing, terminate this Agreement, in which event neither party shall have any further rights or obligations hereunder; provided, however, the City shall provide to Seller copies of all tests, inspections and studies conducted by City pursuant to Section 4 hereinabove.

8.0 CLOSING. Closing shall occur later than 30 days after the City Council approval of this Purchase Agreement or at such other date, time or place that is mutually acceptable to the City, Seller and the title company. Closing shall be conducted in accordance with the following:

- (a) Seller shall execute and deliver a General Warranty Deed and Temporary Easement.
- (b) The City shall deliver the purchase price in the form of certified funds, wire transfer or other form acceptable to the title company which will enable it to wire funds to Seller on the date of Closing.
- (c) City shall pay the base premium for the title insurance policy, closing costs and any endorsements thereto.
- (d) The Parties shall each execute the customary and standard closing documents requested by the title company, including the settlement statements.
- (e) Possession of the Property shall be delivered to the City immediately following Closing.

9.0 INTEGRATION. This Agreement is an integration and expresses the entire agreement between all the Parties, and the Parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this Agreement other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either Party, or its agents or employees, hereto.

10.0 DEFAULT. If any payment or any other condition, obligation, or duty is not timely made, tendered, or performed by either Party, then this Agreement, at the option of the Party who is not in default, may be terminated by the non-defaulting Party, in which case, the non-defaulting Party may recover such damages as may be proper. If the non-defaulting Party elects to treat this Agreement as being in full force and effect, the non-defaulting Party shall have the right to an action for specific performance or damages or both.

11.0 SINGULAR/PLURAL/GENDER. Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, personal representatives, successors and assigns.

12.0 ASSIGNMENT. This Agreement shall not be assigned by either Party without the prior written consent of the other.

13.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be hand delivered or via facsimile, addressed to the Party to whom such notice is to be given as follows:

To the City: Mark Oberschmidt
 City Engineer
 1100 37th Street
 Evans, CO 80620

with a copy to: City Attorney

To the Seller: Michael Wiedeman
 3120 55th Avenue
 Greeley, Co 80634

14.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.

15.0 PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

16.0 ADDITIONAL DOCUMENTS OR ACTION. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

17.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

18.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado.

19.0 BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein. This Agreement shall have no force or effect until approved by City Council of the City and signed by the Mayor of the City.

20.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

21.0 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

22.0 FINANCIAL OBLIGATIONS OF CITY. All financial obligations of City under this Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations. Nothing in this Agreement shall be deemed to pledge City's credit or faith, directly or indirectly, to the other Party.

23.0 NO PRESUMPTION. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

24.0 SEVERABILITY. If any provision of this agreement as applied to either Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

25.0 EXECUTION REQUIRED. This Agreement shall not be binding upon any Party hereto unless and until the Parties have executed this Agreement.

26.0 ANTI-MERGER CLAUSE. This Agreement shall survive the closing and not merge with the deed provided for herein.

27.0 MINOR CHANGES. The Parties executing this Agreement are authorized to make nonsubstantive changes to this Agreement and attached exhibits, if any, as they consider necessary.

28.0 GOOD FAITH OF PARTIES. In the performance of this Agreement or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

29.0 NO BROKER. Seller warrants to City that no real estate broker is entitled to claim a commission related to this transaction. Seller agrees to indemnify City for any commission or fee claimed by any real estate broker.

30.0 ADDITIONAL CONDITIONS. NONE

I declare under penalty of perjury under the law of Colorado that I am the Seller or authorize signatory on behalf of Seller under this Agreement for Purchase and Sale:

Execute on MAR 22, 2022.

In the City of Evans, Weld County, Colorado

SELLER:
Michael Wiedeman



ACCEPTED BY:

CITY OF EVANS, COLORADO

Mayor

APPROVED AS TO FORM:

City Attorney

**CITY OF EVANS
REAL PROPERTY**

TO BE ACQUIRED

Parcel Number: RW-02

STA: STA: 1091+88.63 Right to STA: 1106+18.79 Right (37th Street Centerline Alignment)

FROM

Michael L. Wiedeman
3120 55th Avenue
Greeley, CO 80634

FOR

Project Code: 23049
Project Number: STBG M415-021
Location: 37th Street Widening Phase 1



EXHIBIT "A"

PROJECT CODE: 23049
PROJECT NUMBER: STBG M415-021
PARCEL NUMBER: RW-02
DATE: SEPTEMBER 30, 2021

PROPERTY DESCRIPTION

A tract or parcel of land No. RW-02 of the City of Evans Project Code 23049, Project Number STBG M415-021, containing 18,006 square feet (0.413 acre), more or less, being part of that parcel of land described in that Personal Representative's Deed of Distribution recorded September 25, 2015 as Reception No. 4145363 of the records of the Weld County Clerk and Recorder, located in the Northwest Quarter (NW1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), City of Evans, County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists One (1) monument attempting to monumentalize the Northwest corner of said Section 26 and Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26. For the purposes of this property description, the North line of the Northwest Quarter (NW1/4) of said Section 26 is defined as shown on the plat of Tuscany-First Filing, recorded March 21, 2000 as Reception No. 2756849 of the records of the Weld County Clerk and Recorder, being currently monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end;

COMMENCING at the Northwest corner of said Section 26; **THENCE** South 89°29'05" East a distance of 1220.18 feet to the intersection of the West line of that parcel of land described in said Personal Representative's Deed of Distribution with a line being Thirty (30) feet, as measured at a right angle, South of and parallel with said North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, said point bearing North 89°06'23" East along said North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, a distance of 1220.04 feet to the West line of that parcel of land described in said Personal Representative's Deed of Distribution and again South 00°26'43" East along the West line of that parcel of land described in said Personal Representative's Deed of Distribution a distance of 30.00 feet to a point being Thirty (30) feet, as measured at a right angle, South of said North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, from the Northwest corner of said Section 26, said point being the **POINT OF BEGINNING**;



1. THENCE North 89°06'23" East along a line being Thirty (30) feet, as measured at a right angle, South of and parallel with said North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, a distance of 1429.14 feet to the East line of the Northwest Quarter (NW1/4) of said Section 26, as defined above;
2. THENCE South 00°34'06" East along the East line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, a distance of 2.48 feet to a point being One Hundred Twenty (120) feet, as measured at a right angle, South of the North Right-of-way line of 37th Street as established by said Tuscany-First Filing;
3. THENCE South 88°17'42" West along a line being One Hundred Twenty (120) feet, as measured at a right angle, South of and parallel with said North Right-of-way line a distance of 1429.45 feet to the West line of that parcel of land described in said Personal Representative's Deed of Distribution;
4. THENCE North 00°26'43" West along the West line of that parcel of land described in said Personal Representative's Deed of Distribution a distance of 22.72 feet to the **POINT OF BEGINNING**.

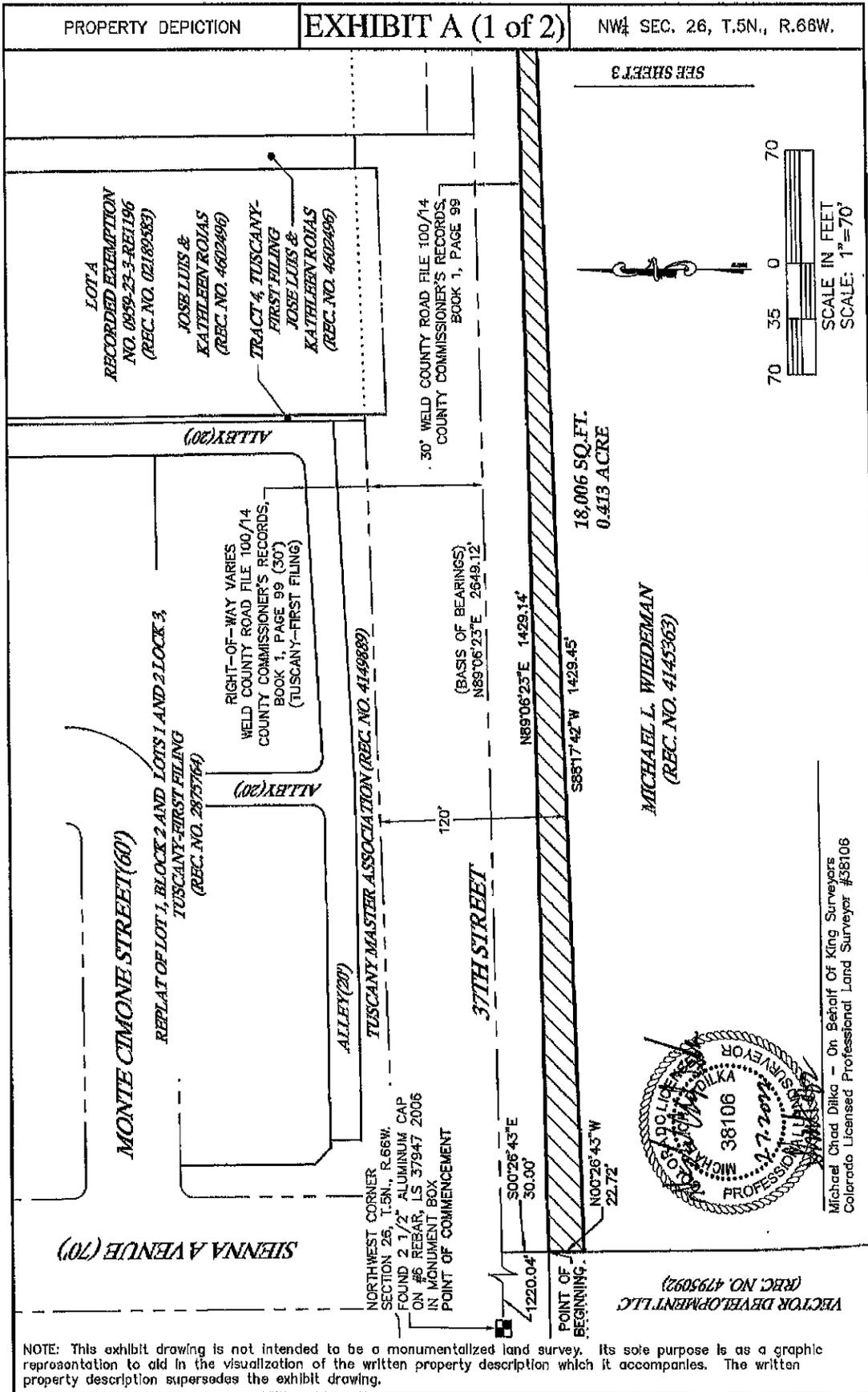
The above-described parcel contains 18,006 square feet (0.413 acre), more or less.

Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 ½" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 ½" diameter aluminum cap stamped "LS38175, 2016" at the East end, as bearing North 89°06'23" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2649.12 feet, with all other bearings contained herein relative thereto.

Lineal Unit Definition: The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

For and on the behalf of
 City of Evans
 Michael Chad Dilka, PLS 38106
 King Surveyors (Job # 20190090)
 650 East Garden Drive
 Windsor, CO 80550
 (970) 686-5011



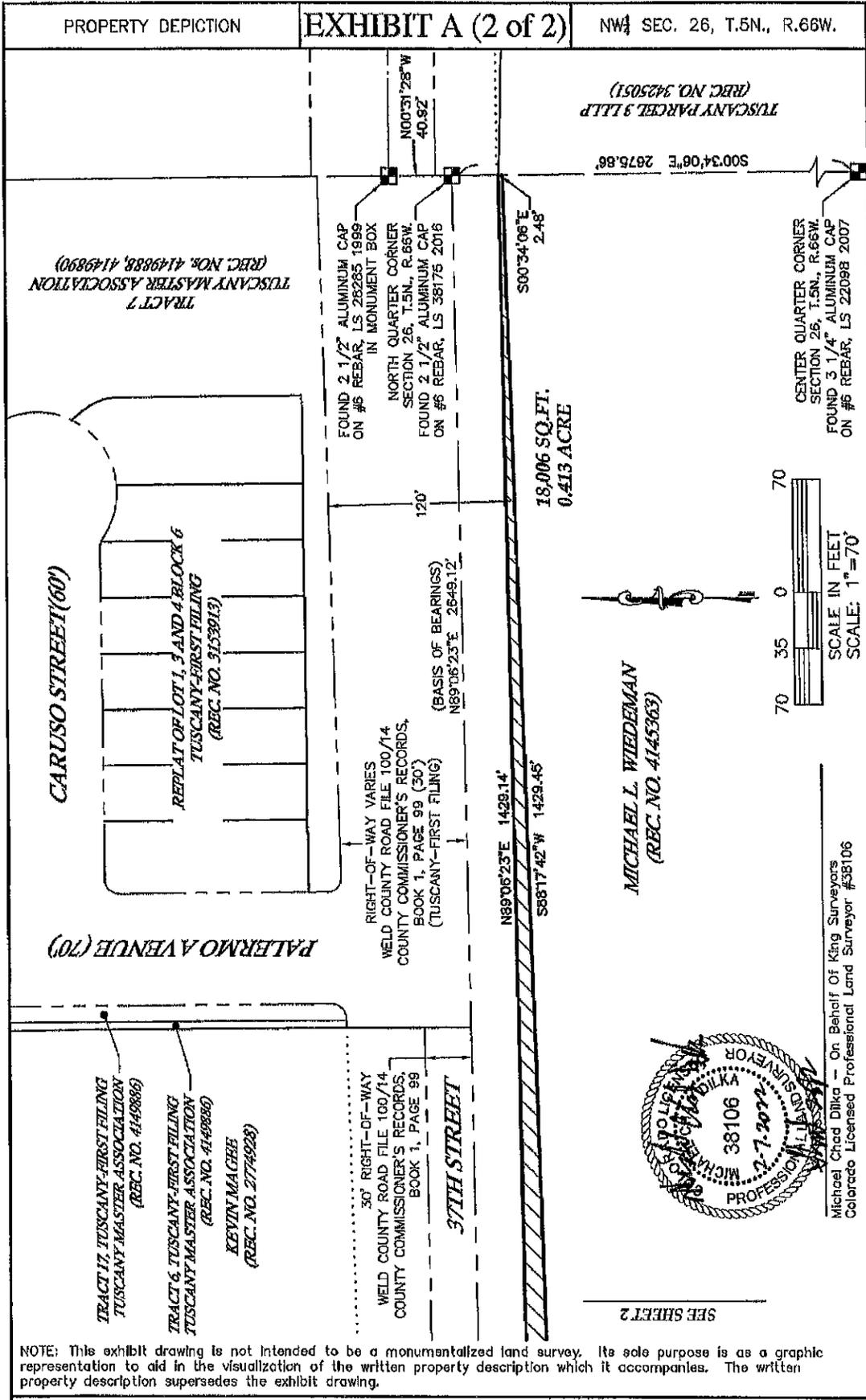


NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS
650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
email: contact@KingSurveyors.com

PROJECT NO: 20190090
DATE: 2/4/2022
CLIENT: ROCKSOL
DWG: ROW-WIEDEMAN-MICHAEL
DRAWN: SMF CHECKED: MCD



NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



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PROJECT NO: 20190090
 DATE: 2/4/2022
 CLIENT: ROCKSOL
 DWG: ROW-WIEDEMAN-MICHAEL
 DRAWN: SMF CHECKED: MCD

**CITY OF EVANS
REAL PROPERTY**

TO BE ACQUIRED

Parcel Number: TE-02

STA: STA: 1091+85.88 Right to STA: 1093+81.00 Right (37th Street Centerline Alignment)

FROM

Michael L. Wiedeman
3120 55th Avenue
Greeley, CO 80634

FOR

Project Code: 23049
Project Number: STBG M415-021
Location: 37th Street Widening Phase 1



EXHIBIT "B"

PROJECT CODE: 23049
PROJECT NUMBER: STBG M415-021
PARCEL NUMBER: TE-02
DATE: SEPTEMBER 30, 2021

PROPERTY DESCRIPTION

A tract or parcel of land No. TE-02 of the City of Evans Project Code 23049, Project Number STBG M415-021, containing 8,741 square feet (0.201 acre), more or less, being part of that parcel of land described in that Personal Representative's Deed of Distribution recorded September 25, 2015 as Reception No. 4145363 of the records of the Weld County Clerk and Recorder, located in the Northwest Quarter (NW1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), City of Evans, County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists One (1) monument attempting to monumentalize the Northwest corner of said Section 26 and Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26. For the purposes of this property description, the North line of the Northwest Quarter (NW1/4) of said Section 26 is defined as shown on the plat of Tuscany-First Filing, recorded March 21, 2000 as Reception No. 2756849 of the records of the Weld County Clerk and Recorder, being currently monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end;

COMMENCING at the Northwest corner of said Section 26; **THENCE** South 88°25'07" East a distance of 1220.77 feet to the intersection of the West line of that parcel of land described in said Personal Representative's Deed of Distribution with a line being One Hundred Twenty (120) feet, as measured at a right angle, South of and parallel with the North Right-of-way line of 37th Street as established by said Tuscany-First Filing, said point bearing North 89°06'23" East along said North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, a distance of 1220.04 feet to the West line of that parcel of land described in said Personal Representative's Deed of Distribution and again South 00°26'43" East along the West line of that parcel of land described in said Personal Representative's Deed of Distribution a distance of 52.72 feet to a point being One Hundred Twenty (120) feet, as measured at a right angle, South of the North Right-of-way line of 37th Street as established by said Tuscany-First Filing, from the Northwest corner of said Section 26, said point being the **POINT OF BEGINNING**;



1. THENCE North 88°17'42" East along a line being One Hundred Twenty (120) feet, as measured at a right angle, South of and parallel with said North Right-of-way line a distance of 192.37 feet;
2. THENCE South 01°42'55" East a distance of 23.94 feet;
3. THENCE South 88°17'40" West a distance of 155.00 feet;
4. THENCE South 01°42'15" East a distance of 105.99 feet;
5. THENCE South 89°01'37" West a distance of 40.12 feet to the West line of that parcel of land described in said Personal Representative's Deed of Distribution, said point being the beginning point of a curve, said curve being non-tangent to aforesaid line;

The following Two (2) courses and distances are along the West line of that parcel of land described in said Personal Representative's Deed of Distribution:

6. THENCE along the arc of said curve, which is concave to the East, a distance of 10.96 feet to a Point of Tangency (PT), said curve having a radius of 650.00 feet, a central angle of 00°57'58" and a long chord bearing North 00°55'43" West a distance of 10.96 feet;
7. THENCE North 00°26'43" West a distance of 118.49 feet to the **POINT OF BEGINNING.**

The above-described parcel contains 8,741 square feet (0.201 acre), more or less.

The purpose of the above described Temporary Easement is for activities associated with roadway construction.

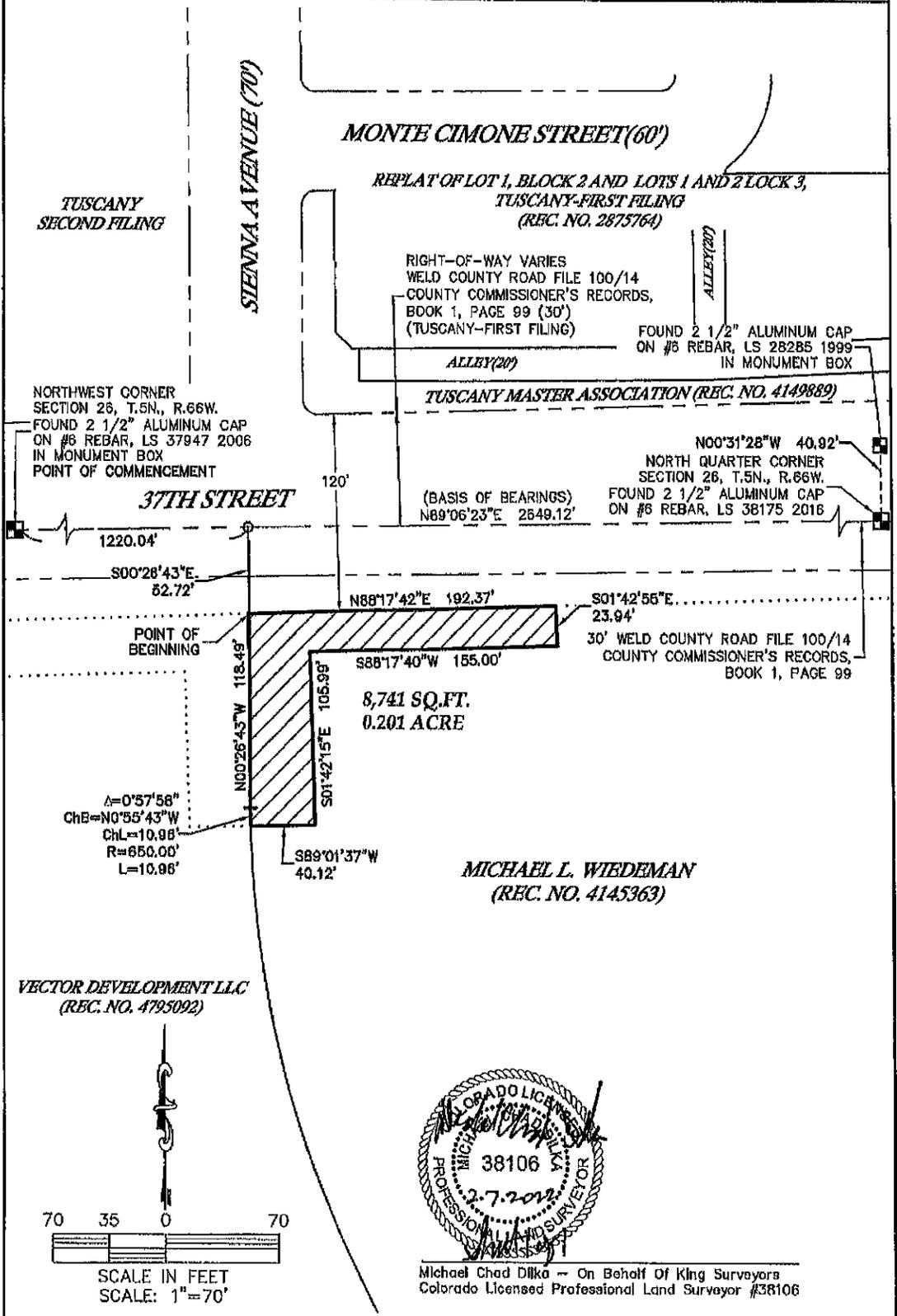
Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end, as bearing North 89°06'23" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2649.12 feet, with all other bearings contained herein relative thereto.

Lineal Unit Definition: The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

For and on the behalf of
 City of Evans
 Michael Chad Dilka, PLS 38106
 King Surveyors (Job # 20190090)
 650 East Garden Drive
 Windsor, CO 80550
 (970) 686-5011



PROPERTY DEPICTION **EXHIBIT B (1 of 1)** NW1/4 SEC. 26, T.5N., R.66W.



NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS
650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
email: contact@KingSurveyors.com

PROJECT NO:20190090
DATE: 2/4/2022
CLIENT: ROCKSOL
DWG:TCE--WIEDEMAN--MICHAEL
DRAWN: SMF CHECKED: MCD

AN AGREEMENT FOR THE SALE AND PURCHASE OF REAL ESTATE BY AND
BETWEEN **Michael Wiedeman** AND THE CITY OF EVANS COLORADO.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1.0 PARTIES AND PROPERTY.

1.1 The parties to this Agreement are The City of Evans, Colorado, ("City") and **Michael Wiedeman** (the "Seller") and collectively, the "Parties," or individually, a "Party."

1.2 The Seller shall provide to the City a temporary construction easement for the right to use the area demonstrated by Exhibit A, known as the "Property" for the purpose of construction access, cut and fill slopes and drainage and reconstruction of an existing road.

2.0 PURCHASE PRICE AND TERMS. The Property consists of 35,942 square feet, more or less to be purchased for a total purchase price of **TWO THOUSAND ONE HUNDRED DOLLARS** (\$2,100.00) and other good and valuable consideration as set forth in the terms of this Purchase Agreement, payable to the Seller in cash or certified funds, delivered to Seller at closing, subject to closing adjustments as provided in this Agreement, and further subject to all terms and conditions hereof.

2.1 At Closing, Seller shall execute and deliver to City a Temporary Easement Deed for use of construction access, cut and fill slopes, and drainage and reconstruction of an existing road, as described on Exhibit A.

2.2 Seller shall pay all personal property taxes due for the year of closing and all preceding years, if any.

2.3 Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, which materially impacts the City's intended use of the Property, from the date of this Agreement until the conveyance of said Property from Seller to City, shall be at the risk of Seller. If, prior to closing, said Property is destroyed or damaged in whole or in part, this Agreement may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this Agreement despite such damage, provided that City shall be entitled to all the credit for

insurance proceeds resulting from such damage, not exceeding, however, the total purchase price.

2.4 Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

2.5 Seller represents and covenants to City that it comprises all of the parties who have a fee interest in said Property described in Exhibit A, and that it has full and lawful authority to enter into this Agreement.

3.0 SELLER'S ADDITIONAL WARRANTIES. Seller represents and warrants to the City that as of the date hereof, and as of the date of the Closing, that the following are true and correct to the best of its knowledge:

3.1 The Seller has received no notice of and has no other knowledge of any litigation, claim, or proceeding, pending or currently threatened, which in any manner affects the Property nor does the Seller know of any ground for any such litigation, proceedings or investigations; and

3.2 The Seller has received no notice and has no other knowledge of any current or existing violation of any federal, state, or local law, code, ordinance, rule, regulation, or requirement affecting the property; and

3.3 The Seller has the full right, power, and authority to transfer and convey the Property to the City as provided in this Agreement and to carry out the Seller's obligations under this Agreement; and

3.4 Each and every document, schedule, item, and other information delivered or to be delivered by the Seller to the City hereunder or made available to the City for inspection hereunder shall be true, accurate, and correct; and

3.5 The Seller has not entered into any agreements with any private persons or entity or with any governmental or quasi-governmental entity with respect to the Property that may result in liability or expenses to the City upon the City's acquisition of all or any portion of the Property; and

3.6 There are no special assessments that now burden or encumber the Property and there are no special assessments currently proposed as to the Property; and

3.7 The execution and delivery of this Agreement and the performance of all of the obligations of the Seller hereunder will not result in a breach of or constitute a

default under any agreement entered into by the Seller or under any covenant or restriction affecting the Property; and

3.8 There are no leases, tenancies, or rental agreements relating to the Property or to any part thereof that cannot be terminated by the Seller on or prior to the date of closing of the transactions provided in the Agreement; and

3.9 The Seller has not granted or created and has no knowledge of any third parties who may have the right to claim or assert any easement, right-of-way, or claim of possession not shown by record, whether by grant, prescription, adverse possession, or otherwise as to any part of the property; and

3.10 To the best of the Seller's knowledge, no part of the Property has ever been used as a landfill, and no materials have ever been stored or deposited upon the Property that would under any applicable governmental law or regulation require that the Property be treated or materials removed from the Property prior to the use of the Property for any purpose that would be permitted by law but for the existence of said materials on the Property; and

3.11 To the best of the Seller's knowledge, no underground storage tank, as that term is defined by federal statute or Colorado statute, is located on the Property which under applicable governmental regulation requires such underground storage tank to be upgraded, modified, replaced, closed, or removed, and

3.12 To the best of the Seller's knowledge, the Property is not in violation of any federal, state or local law, ordinance or regulations relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions. Neither Seller, nor to the Seller's knowledge any third party, has used, generated, manufactured, refined, produced, processed, stored or disposed of on, or under the Property or transported to or from the Property any Hazardous Materials nor does Seller intend to use the Property prior to closing date for the purpose of generating, manufacturing, refining, producing, storing, handling, transferring, processing or transporting Hazardous Materials. For the purposes hereof, Hazardous Materials shall mean any flammable explosive, radioactive materials, asbestos, petroleum, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or released materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous material" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 § U.S.C. § 9601 *et seq.*, the Hazardous Materials Transportation Act of 1975, as amended, 49 U.S.C. § 5101, *et seq.*, the Resource Conservation and Recovery Act, as amended, 42, U.S.C. § 6901, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of governmental authority regulating, relating to or imposing liability

or standard of conduct concerning any hazardous, toxic or dangerous substance or material, as nor or at any time hereafter in effect, and in the regulation adopted, published and/or promulgated pursuant to said laws; and

3.13 The Seller has no knowledge of any claims or purported claims or adverse possession pertaining to the Property of any land adjacent thereto by reason of the location of any exterior boundary fence lines or otherwise.

The Seller shall, at the time of closing, certify to the City in writing that the above and foregoing representations and warranties remain true and correct as of the date of Closing.

4.0 TERMS TO SURVIVE CLOSING. The Parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the Closing herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

5.0 REVIEW PERIOD – RIGHT TO TERMINATE. In the event the City's review of the status of title to the Property or the condition of the Property or any other matter causes the City to conclude that the Property is unsatisfactory to the City for any reason whatsoever, the City may, upon written notice to Seller via facsimile or hand delivery, delivered no later than 5:00 p.m. 24 hours before the Closing, terminate this Agreement, in which event neither party shall have any further rights or obligations hereunder; provided, however, the City shall provide to Seller copies of all tests, inspections and studies conducted by City pursuant to Section 4 hereinabove.

6.0 CLOSING. Closing shall occur later than 30 days after the City Council approval of this Purchase Agreement or at such other date, time or place that is mutually acceptable to the City, Seller and the title company. Closing shall be conducted in accordance with the following:

- (a) Seller shall execute and deliver a Temporary Easement.
- (b) The City shall deliver the purchase price in the form of a check.

(c) Possession of the Property shall be delivered to the City immediately following Closing.

7.0 INTEGRATION. This Agreement is an integration and expresses the entire agreement between all the Parties, and the Parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this Agreement other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either Party, or its agents or employees, hereto.

8.0 DEFAULT. If any payment or any other condition, obligation, or duty is not timely made, tendered, or performed by either Party, then this Agreement, at the option of the Party who is not in default, may be terminated by the non-defaulting Party, in which case, the non-defaulting Party may recover such damages as may be proper. If the non-defaulting Party elects to treat this Agreement as being in full force and effect, the non-defaulting Party shall have the right to an action for specific performance or damages or both.

9.0 SINGULAR/PLURAL/GENDER. Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, personal representatives, successors and assigns.

10.0 ASSIGNMENT. This Agreement shall not be assigned by either Party without the prior written consent of the other.

11.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be hand delivered or via facsimile, addressed to the Party to whom such notice is to be given as follows:

To the City: Mark Oberschmidt
City Engineer
1100 37th Street
Evans, CO 80620

with a copy to: City Attorney

To the Seller: Michael Wiedeman
3120 55th Avenue
Greeley, Co 80634

12.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.

13.0 PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

14.0 ADDITIONAL DOCUMENTS OR ACTION. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

15.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

16.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado.

17.0 BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein. This Agreement shall have no force or effect until approved by City Council of the City and signed by the Mayor of the City.

18.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

19.0 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

20.0 FINANCIAL OBLIGATIONS OF CITY. All financial obligations of City under this Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations. Nothing in this Agreement shall be deemed to pledge City's credit or faith, directly or indirectly, to the other Party.

21.0 NO PRESUMPTION. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this

Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

22.0 SEVERABILITY. If any provision of this agreement as applied to either Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

23.0 EXECUTION REQUIRED. This Agreement shall not be binding upon any Party hereto unless and until the Parties have executed this Agreement.

24.0 ANTI-MERGER CLAUSE. This Agreement shall survive the closing and not merge with the deed provided for herein.

25.0 MINOR CHANGES. The Parties executing this Agreement are authorized to make nonsubstantive changes to this Agreement and attached exhibits, if any, as they consider necessary.

26.0 GOOD FAITH OF PARTIES. In the performance of this Agreement or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

27.0 NO BROKER. Seller warrants to City that no real estate broker is entitled to claim a commission related to this transaction. Seller agrees to indemnify City for any commission or fee claimed by any real estate broker.

28.0 ADDITIONAL CONDITIONS. NONE

I declare under penalty of perjury under the law of Colorado that I am the Seller or authorize signatory on behalf of Seller under this Agreement for Purchase and Sale:

Execute on Mar 22, 2022.

In the City of Evans, Weld County, Colorado

SELLER:
Michael Wiedeman

Michael Wiedeman

ACCEPTED BY:

CITY OF EVANS, COLORADO

Mayor

APPROVED AS TO FORM:

City Attorney

**EXHIBIT A
(1 OF 3)
PROPERTY DESCRIPTION**

A parcel of land, being part of that parcel of land described in that Personal Representative's Deed of Distribution recorded September 25, 2015 as Reception No. 4145363 of the records of the Weld County Clerk and Recorder, located in the Northwest Quarter (NW1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), City of Evans, County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists One (1) monument attempting to monumentalize the Northwest corner of said Section 26 and Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26. For the purposes of this property description, the North line of the Northwest Quarter (NW1/4) of said Section 26 is defined as shown on the plat of Tuscany-First Filing, recorded March 21, 2000 as Reception No. 2756849 of the records of the Weld County Clerk and Recorder, being currently monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end;

COMMENCING at the Northwest corner of said Section 26 and assuming the North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS37947, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS38175, 2016" at the East end, as bearing North 89°06'23" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2649.12 feet, with all other bearings contained herein relative thereto:

THENCE North 89°06'23" East along said North line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, a distance of 1220.04 feet to the West line of that parcel of land described in said Personal Representative's Deed of Distribution;

THENCE South 00°26'43" East along the West line of that parcel of land described in said Personal Representative's Deed of Distribution a distance of 52.72 feet to a point being One Hundred Twenty (120) feet, as measured at a right angle, South of the North Right-of-way line of 37th Street as established by said Tuscany-First Filing;

THENCE North 88°17'42" East along a line being One Hundred Twenty (120) feet, as measured at a right angle, South of and parallel with said North Right-of-way line a distance of 192.37 feet to the **POINT OF BEGINNING**;

THENCE continuing North 88°17'42" East along a line being One Hundred Twenty (120) feet, as measured at a right angle, South of and parallel with said North Right-of-way line a distance of 1237.09 feet to the East line of the Northwest Quarter (NW1/4) of said Section 26, as defined above;

THENCE South 00°34'06" East along the East line of the Northwest Quarter (NW1/4) of said Section 26, as defined above, a distance of 33.61 feet;

THENCE South 89°53'40" West a distance of 453.59 feet;

THENCE South 01°42'00" East a distance of 56.00 feet;

THENCE South 88°17'57" West a distance of 52.99 feet;

THENCE North 01°42'20" West a distance of 63.00 feet;

THENCE South 89°45'00" West a distance of 118.05 feet;

THENCE South 01°42'27" East a distance of 24.00 feet;

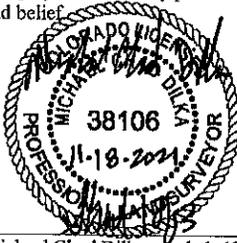
THENCE South 89°19'30" West a distance of 612.09 feet;

THENCE North 01°42'55" West a distance of 23.94 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 35,942 sq. ft. or 0.825 acre, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYORS STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

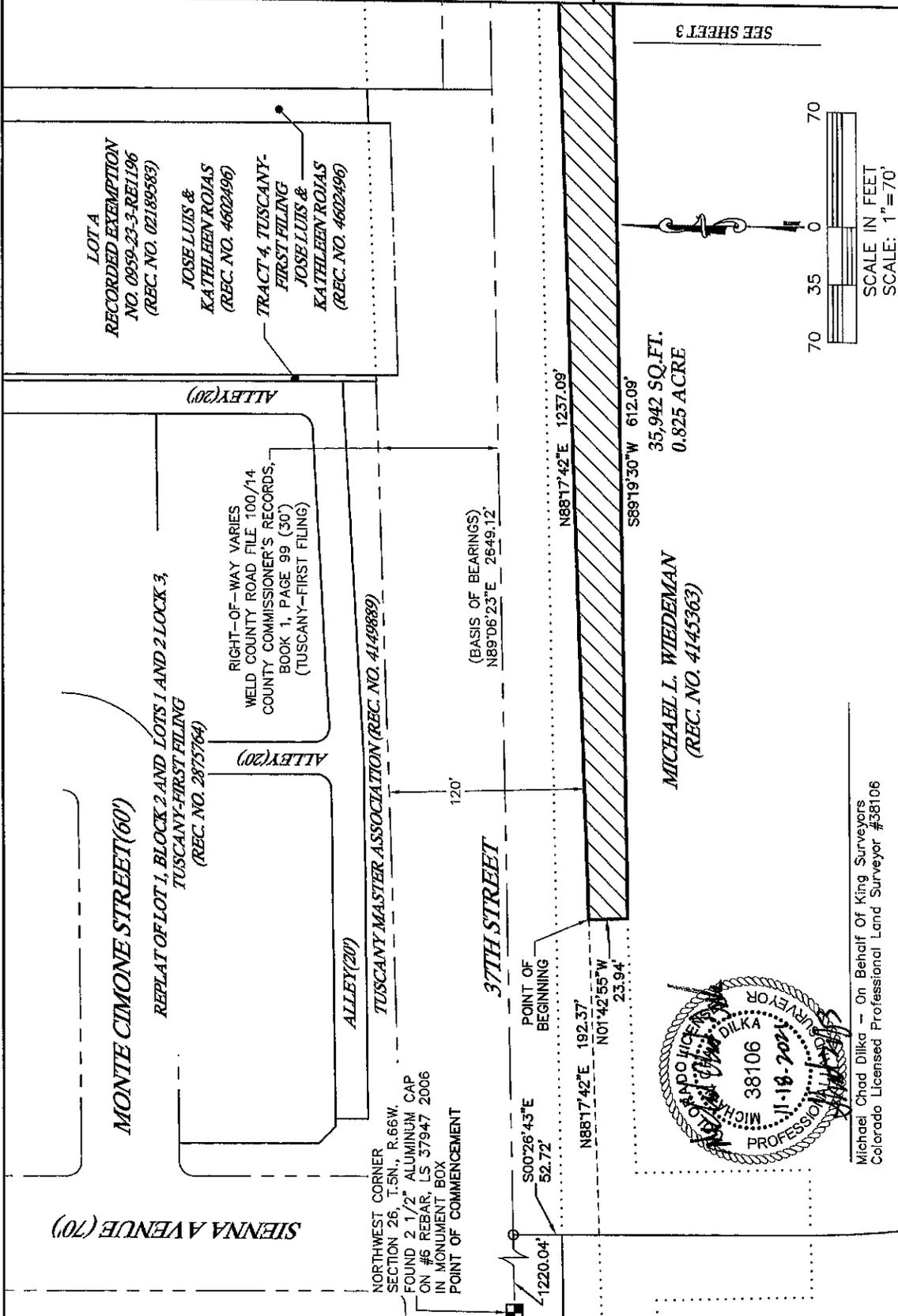
KING SURVEYORS, 650 East Garden Drive, Windsor, Colorado 80550, (970) 686-5011

JN: 20190090

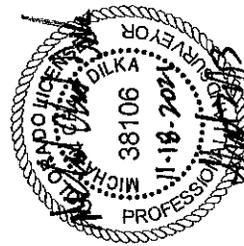
PROPERTY DEPICTION

EXHIBIT A (2 of 3)

NW1/4 SEC. 26, T.5N., R.66W.



NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.

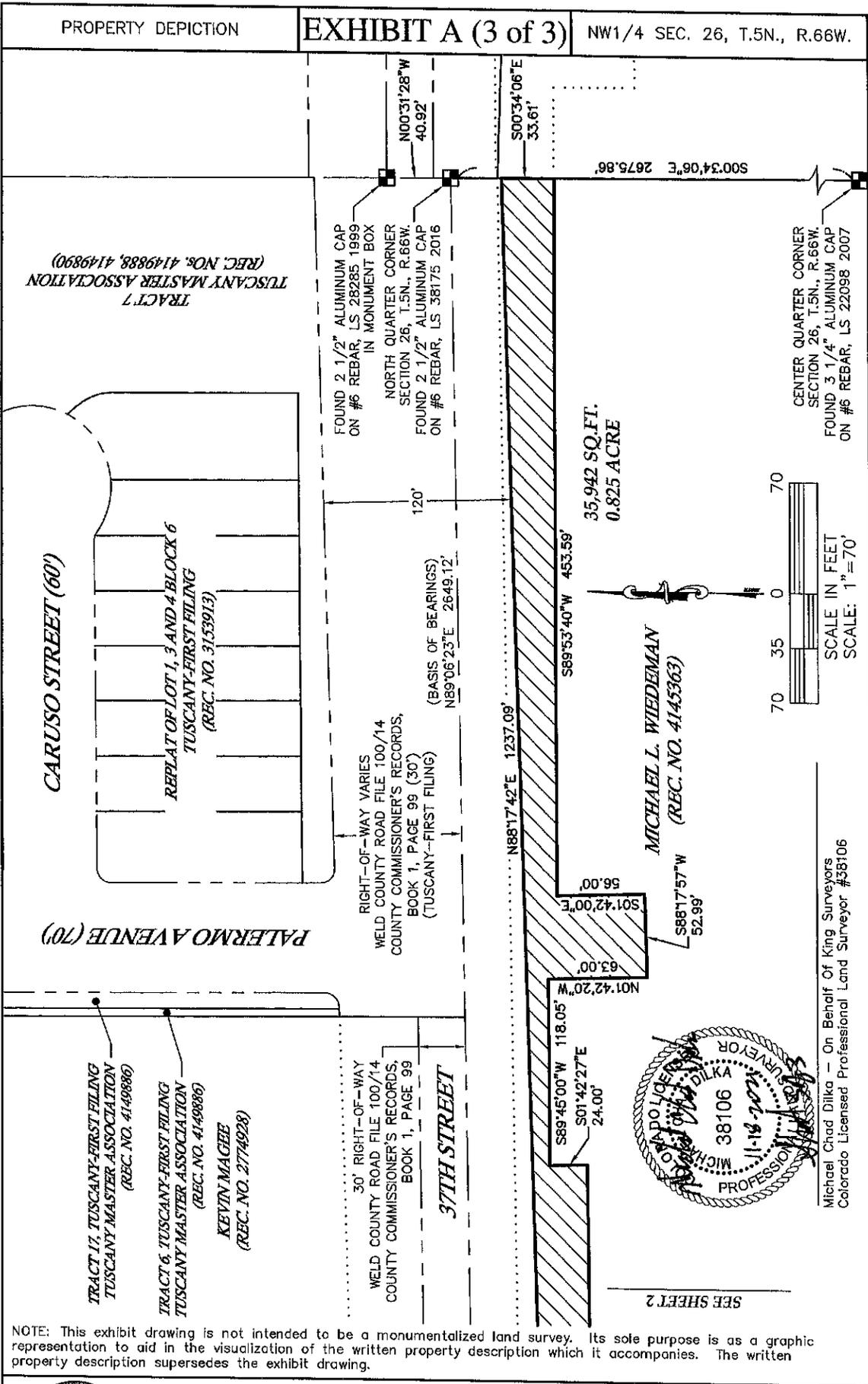


Michael Chad Dilka - On Behalf Of King Surveyors
Colorado Licensed Professional Land Surveyor #38106



KING SURVEYORS
 650 E. Garden Drive | Windsor, Colorado 80550
 phone: (970) 686-5011 | fax: (970) 686-5821
 email: contact@KingSurveyors.com

PROJECT NO: 20190090
 DATE: 11/12/2021
 CLIENT: ROCKSOL
 DWG: TCE--WIEDEMAN--MICHAEL
 DRAWN: SMF CHECKED: MCD



NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



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PROJECT NO: 20190090
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 DRAWN: SMF CHECKED: MCD

AN AGREEMENT FOR THE SALE AND PURCHASE OF REAL ESTATE BY AND BETWEEN **Rebecca and Peter Hunziker** AND THE CITY OF EVANS COLORADO.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1.0 PARTIES AND PROPERTY.

1.1 The parties to this Agreement are The City of Evans, Colorado, ("City") and **Rebecca and Peter Hunziker** (collectively the "Seller") and collectively, the "Parties," or individually, a "Party."

1.2 The Seller agrees to sell and City agrees to purchase and receive the real estate, together with all improvements, as described in Exhibit A, hereinafter referred to as the "Property," situate in the County of Weld, State of Colorado.

1.3 Additionally, the Seller shall provide to the City a temporary construction easement for the right to use the area demonstrated by Exhibit B, known as the Temporary Construction Easement as for the purpose of construction access, cut and fill slopes and drainage and reconstruction of an existing road.

2.0 PURCHASE PRICE AND TERMS. The Property consists of 39,463 square feet, more or less to be purchased for a total purchase price of **TWO HUNDRED SIXTY FOUR THOUSAND SIX HUNDRED FIFTY DOLLARS** (\$264,650.00) and other good and valuable consideration as set forth in the terms of this Purchase Agreement, payable to the Seller in cash or certified funds, delivered to Seller at closing, subject to closing adjustments as provided in this Agreement, and further subject to all terms and conditions hereof.

2.1 At Closing, Seller shall execute and deliver to City a General Warranty Deed for possession of the Property described on Exhibit A, which shall include all of the surface estates which are owned by Seller (except such reservations and easements not owned by Seller as shown in the title commitment) conveying said Property free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, and easements.

2.2 At Closing, Seller shall execute and deliver to City a Temporary Easement for use of construction access, cut and fill slopes, and drainage and reconstruction of an existing road.

2.3 Seller shall pay all personal property taxes due for the year of closing and all preceding years, if any. General property taxes for the year of closing shall be apportioned between the Parties to the date of delivery of deed; however, Seller shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

2.4 Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, which materially impacts the City's intended use of the Property, from the date of this Agreement until the conveyance of said Property from Seller to City, shall be at the risk of Seller. If, prior to closing, said Property is destroyed or damaged in whole or in part, this Agreement may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this Agreement despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price.

2.5 Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

2.6 Seller represents and covenants to City that it comprises all of the parties who have a fee interest in said Property described in Exhibit A, and that it has full and lawful authority to enter into this Agreement.

3.0 SELLER'S ADDITIONAL WARRANTIES. Seller represents and warrants to the City that as of the date hereof, and as of the date of the Closing, that the following are true and correct to the best of its knowledge:

3.1 The Seller has received no notice of and has no other knowledge of any litigation, claim, or proceeding, pending or currently threatened, which in any manner affects the Property nor does the Seller know of any ground for any such litigation, proceedings or investigations; and

3.2 The Seller has received no notice and has no other knowledge of any current or existing violation of any federal, state, or local law, code, ordinance, rule, regulation, or requirement affecting the property; and

3.3 The Seller has the full right, power, and authority to transfer and convey the Property to the City as provided in this Agreement and to carry out the Seller's obligations under this Agreement; and

3.4 Each and every document, schedule, item, and other information delivered or to be delivered by the Seller to the City hereunder or made available to the City for inspection hereunder shall be true, accurate, and correct; and

3.5 The Seller has not entered into any agreements with any private persons or entity or with any governmental or quasi-governmental entity with respect to the Property that may result in liability or expenses to the City upon the City's acquisition of all or any portion of the Property; and

3.6 There are no special assessments that now burden or encumber the Property and there are no special assessments currently proposed as to the Property; and

3.7 The execution and delivery of this Agreement and the performance of all of the obligations of the Seller hereunder will not result in a breach of or constitute a default under any agreement entered into by the Seller or under any covenant or restriction affecting the Property; and

3.8 There are no leases, tenancies, or rental agreements relating to the Property or to any part thereof that cannot be terminated by the Seller on or prior to the date of closing of the transactions provided in the Agreement; and

3.9 The Seller has not granted or created and has no knowledge of any third parties who may have the right to claim or assert any easement, right-of-way, or claim of possession not shown by record, whether by grant, prescription, adverse possession, or otherwise as to any part of the property; and

3.10 To the best of the Seller's knowledge, no part of the Property has ever been used as a landfill, and no materials have ever been stored or deposited upon the Property that would under any applicable governmental law or regulation require that the Property be treated or materials removed from the Property prior to the use of the Property for any purpose that would be permitted by law but for the existence of said materials on the Property; and

3.11 To the best of the Seller's knowledge, no underground storage tank, as that term is defined by federal statute or Colorado statute, is located on the Property which under applicable governmental regulation requires such underground storage tank to be upgraded, modified, replaced, closed, or removed, and

3.12 To the best of the Seller's knowledge, the Property is not in violation of any federal, state or local law, ordinance or regulations relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions. Neither Seller, nor to the Seller's knowledge any third party, has used, generated, manufactured, refined, produced, processed, stored or disposed of on, or under the Property or transported to or from the Property any Hazardous Materials nor does Seller intend to use the Property prior to closing date for the purpose of generating, manufacturing, refining, producing, storing, handling, transferring, processing or transporting Hazardous Materials. For the purposes hereof, Hazardous Materials shall mean any flammable explosive, radioactive materials, asbestos,

petroleum, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or released materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous material" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 § U.S.C. § 9601 *et seq.*, the Hazardous Materials Transportation Act of 1975, as amended, 49 U.S.C. § 5101, *et seq.*, the Resource Conservation and Recovery Act, as amended, 42, U.S.C. § 6901, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of governmental authority regulating, relating to or imposing liability or standard of conduct concerning any hazardous, toxic or dangerous substance or material, as nor or at any time hereafter in effect, and in the regulation adopted, published and/or promulgated pursuant to said laws; and

3.13 The Seller has no knowledge of any claims or purported claims or adverse possession pertaining to the Property of any land adjacent thereto by reason of the location of any exterior boundary fence lines or otherwise.

The Seller shall, at the time of closing, certify to the City in writing that the above and foregoing representations and warranties remain true and correct as of the date of Closing.

4.0 INSPECTION AND ENVIRONMENTAL AUDIT.

4.1 At all reasonable times during the term of this Agreement, the City, and the City's employees, agents and contractors shall have access to the Property for the purpose of conducting tests, studies and surveys thereon, including, without limitation, environmental audits, and soil and subsoil tests. The City may have performed at its option and expense the following inspections: (a) Soil and percolation tests; (b) inspections for asbestos, PCB's, underground tanks, or other hazardous substances; and (c) any other tests or studies deemed necessary by the City.

4.2 The City shall promptly provide to the Seller copies of the results of all such tests, inspections, and studies following the receipt of same by the City. The City may at its sole expense obtain a Phase I and/or Phase II environmental audit of the Property. In the event the City is not satisfied with the conditions of the Property for any reason or the Site Development Plan and associated development agreements are not approved by City Council and the developer has not proceeded to the development of the project pursuant to the terms of said Site Development Plan and associated development agreements, the City may terminate this Agreement by written notice to Seller pursuant to Section 7.0 of this Agreement.

5.0 TERMS TO SURVIVE CLOSING. The Parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature,

fully and completely performed upon the Closing herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

6.0 TITLE. City shall obtain a commitment for a title insurance policy to be issued by a title insurance company satisfactory to City. In the event the commitment for title insurance shows that Seller does not have good and merchantable fee simple title to said Property or is not the sole Seller of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Seller, the Seller, at its cost, shall obtain a release and/or conveyance to City of any rights or interests identified in title commitment or by other investigation; provided, however, CITY may, at its option, satisfy such liens or encumbrances, clear any easements or other rights or interests which are in conflict with this conveyance.

6.1 If the Seller, by General Warranty deed is unable or unwilling to convey good and merchantable title to City, then notwithstanding any provision hereof to the contrary, City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Seller to clear the title to and General Warranty deed for the Property as provided herein, (b) proceed with this Agreement and waive any defects in title which City, in its sole discretion, determines can be waived; (c) any combination of (a) and (b), above; or (c) bring an action against Seller for specific performance or damages, or both and the prevailing Party shall be entitled to costs and reasonable attorney's fees against the non-prevailing Party for its failure to perform hereunder.

7.0 REVIEW PERIOD – RIGHT TO TERMINATE. In the event the City's review of the status of title to the Property or the condition of the Property or any other matter causes the City to conclude that the Property is unsatisfactory to the City for any reason whatsoever, the City may, upon written notice to Seller via facsimile or hand delivery, delivered no later than 5:00 p.m. 24 hours before the Closing, terminate this Agreement, in which event neither party shall have any further rights or obligations hereunder; provided, however, the City shall provide to Seller copies of all tests, inspections and studies conducted by City pursuant to Section 4 hereinabove.

8.0 CLOSING. Closing shall occur later than 30 days after the City Council approval of this Purchase Agreement or at such other date, time or place that is mutually acceptable to the City, Seller and the title company. Closing shall be conducted in accordance with the following:

- (a) Seller shall execute and deliver a General Warranty Deed and Temporary Easement.

- (b) The City shall deliver the purchase price in the form of certified funds, wire transfer or other form acceptable to the title company which will enable it to wire funds to Seller on the date of Closing.
- (c) City shall pay the base premium for the title insurance policy, closing costs and any endorsements thereto.
- (d) The Parties shall each execute the customary and standard closing documents requested by the title company, including the settlement statements.
- (e) Possession of the Property shall be delivered to the City immediately following Closing.

9.0 INTEGRATION. This Agreement is an integration and expresses the entire agreement between all the Parties, and the Parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this Agreement other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either Party, or its agents or employees, hereto.

10.0 DEFAULT. If any payment or any other condition, obligation, or duty is not timely made, tendered, or performed by either Party, then this Agreement, at the option of the Party who is not in default, may be terminated by the non-defaulting Party, in which case, the non-defaulting Party may recover such damages as may be proper. If the non-defaulting Party elects to treat this Agreement as being in full force and effect, the non-defaulting Party shall have the right to an action for specific performance or damages or both.

11.0 SINGULAR/PLURAL/GENDER. Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, personal representatives, successors and assigns.

12.0 ASSIGNMENT. This Agreement shall not be assigned by either Party without the prior written consent of the other.

13.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be hand delivered or via facsimile, addressed to the Party to whom such notice is to be given as follows:

To the City:

Mark Oberschmidt
City Engineer

1100 37th Street
Evans, CO 80620

with a copy to: City Attorney

To the Seller: Rebecca and Peter Hunziker
10724 Telluride St
Commerce City, CO 80022

14.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.

15.0 PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

16.0 ADDITIONAL DOCUMENTS OR ACTION. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

17.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

18.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado.

19.0 BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein. This Agreement shall have no force or effect until approved by City Council of the City and signed by the Mayor of the City.

20.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

21.0 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended

and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

22.0 FINANCIAL OBLIGATIONS OF CITY. All financial obligations of City under this Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations. Nothing in this Agreement shall be deemed to pledge City's credit or faith, directly or indirectly, to the other Party.

23.0 NO PRESUMPTION. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

24.0 SEVERABILITY. If any provision of this agreement as applied to either Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

25.0 EXECUTION REQUIRED. This Agreement shall not be binding upon any Party hereto unless and until the Parties have executed this Agreement.

26.0 ANTI-MERGER CLAUSE. This Agreement shall survive the closing and not merge with the deed provided for herein.

27.0 MINOR CHANGES. The Parties executing this Agreement are authorized to make nonsubstantive changes to this Agreement and attached exhibits, if any, as they consider necessary.

28.0 GOOD FAITH OF PARTIES. In the performance of this Agreement or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

29.0 NO BROKER. Seller warrants to City that no real estate broker is entitled to claim a commission related to this transaction. Seller agrees to indemnify City for any commission or fee claimed by any real estate broker.

30.0 ADDITIONAL CONDITIONS. NONE

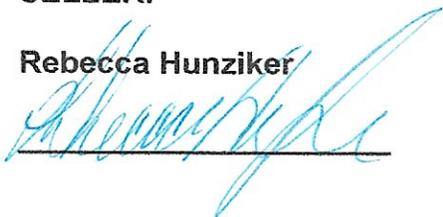
I declare under penalty of perjury under the law of Colorado that I am the Seller or authorize signatory on behalf of Seller under this Agreement for Purchase and Sale:

Executed on March 16, 2022.

In the City of Evans, Weld County, Colorado

SELLER:

Rebecca Hunziker



Peter Hunziker



ACCEPTED BY:

CITY OF EVANS, COLORADO

Mayor

APPROVED AS TO FORM:

City Attorney

**EXHIBIT A
(1 OF 2)
PROPERTY DESCRIPTION**

A parcel of land, being part of the Northeast Quarter (NE1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.). County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26 and Three (3) monuments attempting to monumentalize the Northeast corner of said Section 26. For the purposes of this property description, the North line of the Northeast Quarter (NE1/4) of said Section 26 is defined as shown on the plat of Ashcroft Heights First Filing, recorded October 1, 1999 as Reception No. 2724127 of the records of the Weld County Clerk and Recorder, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends;

COMMENCING at the North Quarter (N1/4) corner of said Section 26, as defined above, and assuming the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends, as bearing North 89°51'08" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 3314.68 feet, with all other bearings contained herein relative thereto:

THENCE North 89°51'08" East along the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, a distance of 2279.22 feet to the Northerly extension of the West line of the Subdivision Exemption Lot, Subdivision Exemption No. 0959-26-1 SUBX15-0002, recorded May 14, 2015 as Reception No. 4107119 of the records of the Weld County Clerk and Recorder, said point being the **POINT OF BEGINNING**;

THENCE continuing North 89°51'08" East along the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, a distance of 507.98 feet to the Northerly extension of the East line of said Subdivision Exemption Lot;

THENCE South 00°15'57" East along the Northerly extension of the East line and along the East line of said Subdivision Exemption Lot a distance of 97.08 feet to the beginning point of a curve, said curve being non-tangent to aforesaid line;

THENCE along the arc of said curve, which is concave to the South, a distance of 508.45 feet to the West line of said Subdivision Exemption Lot, said curve having a radius of 5875.00 feet, a central angle of 04°57'31" and a long chord bearing North 86°36'59" West a distance of 508.29 feet;

THENCE North 00°53'38" West along the West line of said Subdivision Exemption Lot, and the Northerly extension thereof, a distance of 65.77 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 39,463 sq. ft. or 0.906 acre, more or less (±); the North Thirty (30) feet of said described parcel of land contains 15,235 sq. ft. or 0.350 acre, which may be considered to be existing Right-of-way (See Weld County road file 100/14 and Book 1, Page 99 of the County Commissioner's records); said described parcel of land may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYORS STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106
KING SURVEYORS, 650 East Garden Drive, Windsor, Colorado 80550, (970) 686-5011
JN: 20190090

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EXHIBIT B
(1 OF 2)
PROPERTY DESCRIPTION

A parcel of land, being part of the Northeast Quarter (NE1/4), subject to the definition below, of Section Twenty-six (26), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, and being more particularly described as follows:

On the date this property description was signed, there exists Two (2) monuments attempting to monumentalize the North Quarter (N1/4) corner of said Section 26 and Three (3) monuments attempting to monumentalize the Northeast corner of said Section 26. For the purposes of this property description, the North line of the Northeast Quarter (NE1/4) of said Section 26 is defined as shown on the plat of Ashcroft Heights First Filing, recorded October 1, 1999 as Reception No. 2724127 of the records of the Weld County Clerk and Recorder, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends;

COMMENCING at the North Quarter (N1/4) corner of said Section 26, as defined above, and assuming the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "LS28285, 1999" in a monument box at both ends, as bearing North 89°51'08" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 3314.68 feet, with all other bearings contained herein relative thereto:

THENCE North 89°51'08" East along the North line of the Northeast Quarter (NE1/4) of said Section 26, as defined above, a distance of 2279.22 feet to the Northerly extension of the West line of the Subdivision Exemption Lot, Subdivision Exemption No. 0959-26-1 SUBX15-0002, recorded May 14, 2015 as Reception No. 4107119 of the records of the Weld County Clerk and Recorder;

THENCE South 00°53'38" East along said Northerly extension of the West line and along the West line of said Subdivision Exemption Lot a distance of 65.77 feet to the beginning point of a curve, said curve being non-tangent to aforesaid line, said point being the **POINT OF BEGINNING**;

THENCE along the arc of said curve, which is concave to the South, a distance of 508.45 feet to the East line of said Subdivision Exemption Lot, said curve having a radius of 5875.00 feet, a central angle of 04°57'31" and a long chord bearing South 86°36'59" East a distance of 508.29 feet;

THENCE South 00°15'57" East along the East line of said Subdivision Exemption Lot a distance of 22.56 feet;

THENCE North 83°04'27" West a distance of 225.68 feet;

THENCE South 04°59'00" West a distance of 43.02 feet;

THENCE North 88°04'45" West a distance of 36.28 feet;

THENCE North 26°03'56" West a distance of 16.06 feet;

THENCE North 33°18'38" West a distance of 39.78 feet;

THENCE South 89°42'52" West a distance of 102.82 feet;

THENCE South 02°00'23" West a distance of 55.00 feet;

THENCE South 89°19'33" West a distance of 46.97 feet;

THENCE North 01°32'42" East a distance of 60.00 feet;

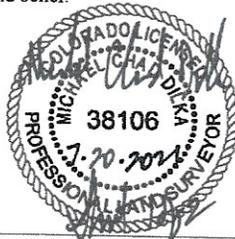
THENCE North 89°35'13" West a distance of 64.26 feet to the West line of said Subdivision Exemption Lot;

THENCE North 00°53'38" West along the West line of said Subdivision Exemption Lot a distance of 14.91 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 13,341 sq. ft. or 0.306 acre, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYORS STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.

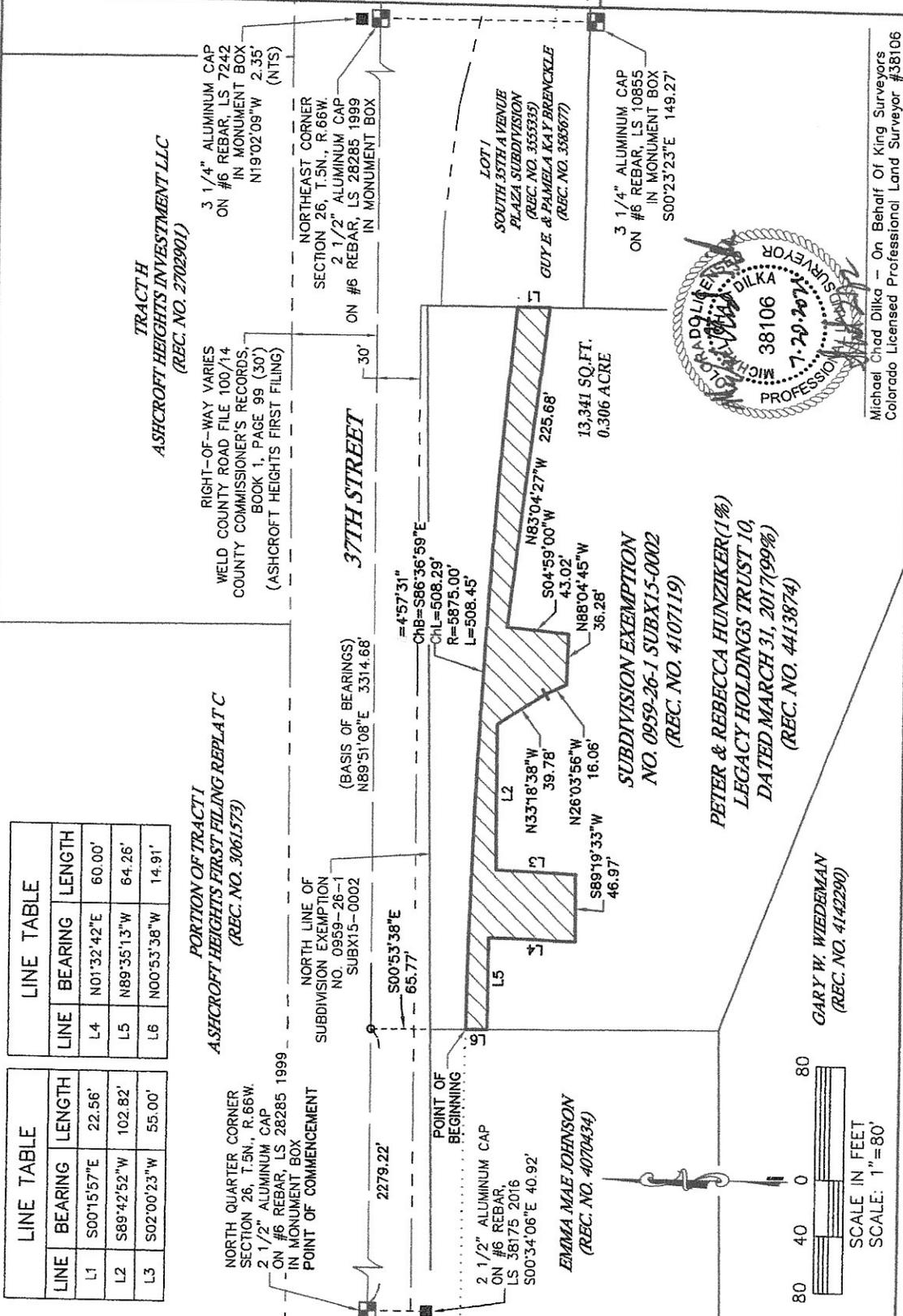


Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 20190090

X:\20190090\property descriptions\TCE-HUNZIKER+LEGACY.docx
7/19/2021 4:37 PM



Michael Chad Dilka - On Behalf Of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



KING SURVEYORS
650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
email: contact@KingSurveyors.com

PROJECT NO: 20190090
DATE: 7/19/2021
CLIENT: ROCKSOL
DWG: TCE-HUNZIKER+LEGACY
DRAWN: SMF CHECKED: MCD

CITY COUNCIL AGENDA REPORT

DATE: 04/04/2022

SUBJECT: Consideration of Approval of Change Order for Evans East Side Storm Sewer (ESSS) to Include BT Construction Subsurface Utility Engineering (SUE) Additional Services

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Mark Oberschmidt, P.E., City Engineer

ITEM DESCRIPTION:

BT Construction (BTC) has been assisting in the design of the ESSS projects as part of the Construction Manager at Risk (CMaR) process. To date their efforts include:

- Value engineering
- Constructability review for 31st Street outfall
- Potholing and Subsurface Utility Engineering (SUE) efforts for 31st Street outfall
- Storm sewer cleaning and videotaping all of the 31st Street storm sewer
- Cost estimating for 31st Street outfall
- Cost Reconciliation for the 31st Street outfall
- Constructability Review for the tunneling under UPRR tracks
- Potholing and SUE efforts for 35th Street outfall

The extent of the Potholing and Subsurface Utility Engineering (SUE) efforts for the 35th Street outfall needed to increase significantly once the design team and staff arrived at a solid pipe alignment route. The number of potholes increased from the originally estimated 20 potholes to 67 potholes including 6-8 potholes in the UPRR ROW. The purpose of SUE is to reduce risk by getting as much information about potential subsurface conditions and underground utility conflicts as possible in order to plan for them before construction rather than reacting to them as surprises during construction, resulting in construction delays, increased project impacts and more expensive construction change order costs.

FINANCIAL SUMMARY:

The City has contracted with BTC in the amount \$246,289.97 for the two ESSS projects (35th Street and 31st Street). Phase 1 included the 31st outfall design assistance and Phase 2 includes the initial 31st Street pipe cleaning and 35th Street outfall design assistance with some planned potholing and SUE work. This was broken down into separate purchase orders in the following amounts:

- Phase 1 \$ 41,700.00- complete

-
- Phase 2
 - 31st Street \$ 48,571.35 –complete
 - 31st Street Pipe Cleaning \$ 87,710.62 –complete
 - 35th Street Design Assist \$ 68,308.00 – ongoing to be completed 2022
 - Subtotal \$ 246,289.97 – current contract

 - Additional 35th Street SUE work \$ 112,164.94
 - New Total \$ 358,454.91 – increased contract amount

This change order along with the previously approved change order for Wilson and Company approved in 2021 increases the total design cost above the originally budgeted amount. Approval of this change order will direct staff to add the change order amount to the next budget revision ordinance for the Stormwater Fund.

RECOMMENDATION:

Staff recommends City Council approve the attached change order in the amount of \$112,164.94.

SUGGESTED MOTIONS:

“I move to approve the change order to the contract with BT Construction Inc, for the East Side Storm Sewer 35th Street Outfall Project in the amount of \$112,164.94, increasing the not to exceed contract amount to \$358,454.91.”

“I move to deny the change order for the East Side Storm Sewer 35th Street Outfall Project.”

ATTACHMENTS:

- Change order documentation
- Change order form



February 15, 2022

City of Evans
1100 37th Street
Evans, CO 80620-2036

Attn: Mark Oberschmidt, P.E.

Re: Change Order Request - Design Assist, Cost Estimating Services, Potholing and SUE Efforts for 35th St

Mr. Oberschmidt:

BT Construction has been working with the City of Evans on the design and cost estimating components of the 35th Street stormwater project. This change order request includes the added costs for additional potholing and SUE services.

The attached documents will highlight the delta between our original request for the 35th Street outfall design-assist and potholing/SUE efforts and the current need to complete the design. The total change order request is for an additional **\$112,164.94** and covers Subsurface Utility Engineering (S.U.E.) requirements for **62** pothole locations, provided by Merrick, the potholing and traffic control to support those efforts, cost estimating to develop a final **Guaranteed Maximum Price (GMP)**, and reconciliation of those costs with a 3rd party estimator.

If acceptable, please issue us a change order at your earliest convenience.

Please let me know if you have questions or require additional information.

Sincerely,

Brian Hardick

Brian Hardick
Project Manager
BT Construction, Inc.

CC: File, John Beckos, Maren Barger, Josh Livermore

ORIGINAL - City of Evans CMAr - RFP 20-04 - Four Stormwater Projects - Design Assist Proposal #2 - 35th Street	
	Amount
Merrick - SUE support	\$ 34,458.00
Potholing / Traffic Control - 20 potholes	\$ 22,250.00
Estimate / GMP / Reconciliation	\$ 11,600.00
Totals	\$ 68,308.00

REVISED - City of Evans CMAr - RFP 20-04 - Four Stormwater Projects - Design Assist Proposal #2 - 35th Street	
	Amount
Merrick - SUE support	\$ 103,355.29
Potholing / Traffic Control - 62 potholes	\$ 64,017.65
Estimate / GMP / Reconciliation	\$ 11,600.00
RR Insurance Costs & Application Fees	\$ 1,500.00
Totals	\$ 180,472.94

35th Street Design Assist - Increase Cost	\$ 112,164.94
--	----------------------

EXHIBIT A BACKUP - DESIGN ASSIST COSTS

City of Evans: Four Stormwater Projects - RFP No. 20-04												
Individual & Category		John Beckos, PM		Estimator		Superintendent		Project Engineer		Expenses	Task Total	
Type of Rate		Labor	Vehicle	Labor	Vehicle	Labor	Vehicle	Labor	Vehicle			
Rates		\$120.00	\$20.00	\$120.00	\$20.00	\$130.00	\$20.00	\$90.00	\$20.00			
Task 2.3	31st Street Outfall - GMP & Reconciliation										\$	4,800.00
2.3.1	Develop GMP	5.0	-	25.0	-	-	-	-	-	\$ -	\$ 3,600.00	
2.3.2	Reconciliation with Capstone	5.0	-	5.0	-	-	-	-	-	\$ -	\$ 1,200.00	
Task 3.2	35th Street Outfall - GMP & Reconciliation										\$	9,860.00
3.2.1	Develop GMP	5.0	-	65.0	-	2.0	-	-	-	\$ -	\$ 8,660.00	
3.2.2	Reconciliation with Capstone	5.0	-	5.0	-	-	-	-	-	\$ -	\$ 1,200.00	
	Subtotal	20.0	-	100.0	-	2.0	-	-	-	\$ -	\$ 14,660.00	
	Level of effort per labor category (hours):	20.00	-	100.00	-	2.00	-	-	-		122.0	
	Total Costs per labor category, sub-consult. & expenses:	\$ 2,400.00	\$ -	\$ 12,000.00	\$ -	\$ 260.00	\$ -	\$ -	\$ -	\$ -	\$ 14,660.00	
	staff-weeks:	0.50		2.50		0.05		-				
										Overhead and Profit Margin - 15%	\$ 2,587.06	
										Total	\$ 17,247.06	

31st Proposal Request	\$ 5,650.00
35th Proposal Request	\$ 11,600.00
<i>No change for 35th Street</i>	

35th Street - BACKUP COSTS - POTHOLING

LINE #	Name / Description	Class / Vendor	Dates							TOTAL ST	TOTAL OT	UM	ST RATE	OT RATE	LABOR	EQUIP / SUBCONTRACTOR
3	Task 1 - Potholing of existing utilities. This is assumed to be 5 full potholing days for approximately 20EA potholes.															
4	Name / Description	Class	Mon	Tue	Wed	Thur	Fri	Sat	Sun	TOTAL ST	TOTAL OT	UM	ST RATE	OT RATE	LABOR	EQUIP / SUBCONTRACTOR
5	Potholing Superintendent	Superintendent	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$130.00		\$1,300.00	
6	Supt. Truck	F-150 Truck	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$25.00			\$250.00
7	Supt. Small Tools	Small Tools	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$15.00			\$150.00
8	Pothole Truck (incl. 2 guys)	Pothole Truck	1.0	1.0	1.0	1.0	1.0			5.0	-	DAY	\$1,950.00			\$9,750.00
9	Traffic Plans	CO Barricade	1.0	-	-	-	-	-	-	1.0	-	LS	\$105.00			\$105.00
10	Daily Traffic Control	CO Barricade	1.0	1.0	1.0	1.0	1.0	-	-	5.0	-	DAY	\$1,100.00			\$5,500.00
														Subtotals	\$1,300.00	\$15,755.00
12	Task 2 - Potholing of existing utilities. This is assumed to be 5 full potholing days for approximately 17EA potholes.															
13	Name / Description	Class	Mon	Tue	Wed	Thur	Fri	Sat	Sun	TOTAL ST	TOTAL OT	UM	ST RATE	OT RATE	LABOR	EQUIP / SUBCONTRACTOR
14	Potholing Superintendent	Superintendent	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$130.00		\$1,300.00	
15	Supt. Truck	F-150 Truck	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$25.00			\$250.00
16	Supt. Small Tools	Small Tools	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$15.00			\$150.00
17	Pothole Truck (incl. 2 guys)	Pothole Truck	1.0	1.0	1.0	1.0	1.0			5.0	-	DAY	\$1,950.00			\$9,750.00
18	Traffic Plans	CO Barricade	1.0	-	-	-	-	-	-	1.0	-	LS	\$105.00			\$105.00
19	Daily Traffic Control	CO Barricade	1.0	1.0	1.0	-	-	-	-	3.0	-	DAY	\$1,100.00			\$3,300.00
20	Daily Traffic Control - 1-lane	CO Barricade	-	-	-	1.0	1.0	-	-	2.0	-	DAY	\$1,750.00			\$3,500.00
														Subtotals	\$1,300.00	\$17,055.00
22	Task 3 - Potholing of existing utilities. This is assumed to be 5 full potholing days for approximately 25EA potholes.															
23	Name / Description	Class	Mon	Tue	Wed	Thur	Fri	Sat	Sun	TOTAL ST	TOTAL OT	UM	ST RATE	OT RATE	LABOR	EQUIP / SUBCONTRACTOR
24	Potholing Superintendent	Superintendent	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$130.00		\$1,300.00	
25	Supt. Truck	F-150 Truck	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$25.00			\$250.00
26	Supt. Small Tools	Small Tools	2.0	2.0	2.0	2.0	2.0	-	-	10.0	-	HR	\$15.00			\$150.00
27	Pothole Truck (incl. 2 guys)	Pothole Truck	2.0	1.0	1.0	1.0	1.0			6.0	-	DAY	\$1,950.00			\$11,700.00
28	Traffic Plans	CO Barricade	1.0	-	-	-	-	-	-	1.0	-	LS	\$105.00			\$105.00
29	Daily Traffic Control	CO Barricade	1.0	1.0	1.0	1.0	1.0	-	-	5.0	-	DAY	\$1,100.00			\$5,500.00
														Subtotals	\$1,300.00	\$17,705.00
														Totals	\$3,900.00	\$50,515.00
														Margin %	15%	15%
														Margin \$\$	\$ 688.24	\$ 8,914.41
														Total \$\$	\$ 4,588.24	\$ 59,429.41
														Total Amount	\$64,017.65	
														Proposal Amount	\$64,017.65	

35st Street Outfall Improvements

Item	SUE Support Descriptions	Units	UM	Unit Cost	Amount
1	SUE Support	1.00	LS	\$37,972.00	\$37,972.00
2	Survey & Field Work Support	1.00	LS	\$30,298.00	\$30,298.00
3	SUE Support CO2	1.00	LS	\$13,116.00	\$13,116.00
4	Survey & Field Work Support CO2	1.00	LS	\$6,466.00	\$6,466.00
				SUBTOTAL	\$87,852.00

	Project Total Estimate			TOTAL	\$87,852.00
				Margin %	15%
				Margin \$\$	\$ 15,503.29
				Total \$\$	\$ 103,355.29



February 11, 2022

John Beckos and Brian Hardick
Project Managers
BT Construction, Inc.
9885 Emporia Street
Henderson, CO 80640

**RE: CHANGE ORDER #2
HERITAGE INN AND 35TH STREET OUTFALL
SUBSURFACE UTILITY ENGINEERING SUPPORT**

Gentlemen:

Merrick & Company (Merrick) is pleased to present this change order for Heritage Inn and 35th Street Outfall Subsurface Utility Engineering Support in the City of Evans, Colorado. Merrick proposes to furnish the professional services as described in Exhibits A, B and C, attached herewith.

I sincerely appreciate the opportunity to present this proposal and look forward to working with you. Please do not hesitate to contact me if you have any questions.

Respectfully,

MERRICK & COMPANY


Gloria Lee, P.E.
Project Manager

Attachments

Exhibits A, B, C



Exhibit A
Heritage Inn and 35th Street Outfall
Subsurface Utility Engineering Support

Revised Scope of Work
December 9, 2021

The City of Evans and Wilson & Company identified 62 test hole locations required for the East Side Storm Sewer (ESSS) – Heritage Inn and 35th Street Outfall. Previously, Merrick prepared a proposal for 37 test holes that was approved as Change Order #1 by BTC on December 14th, 2021.

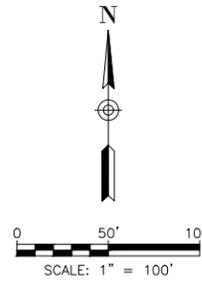
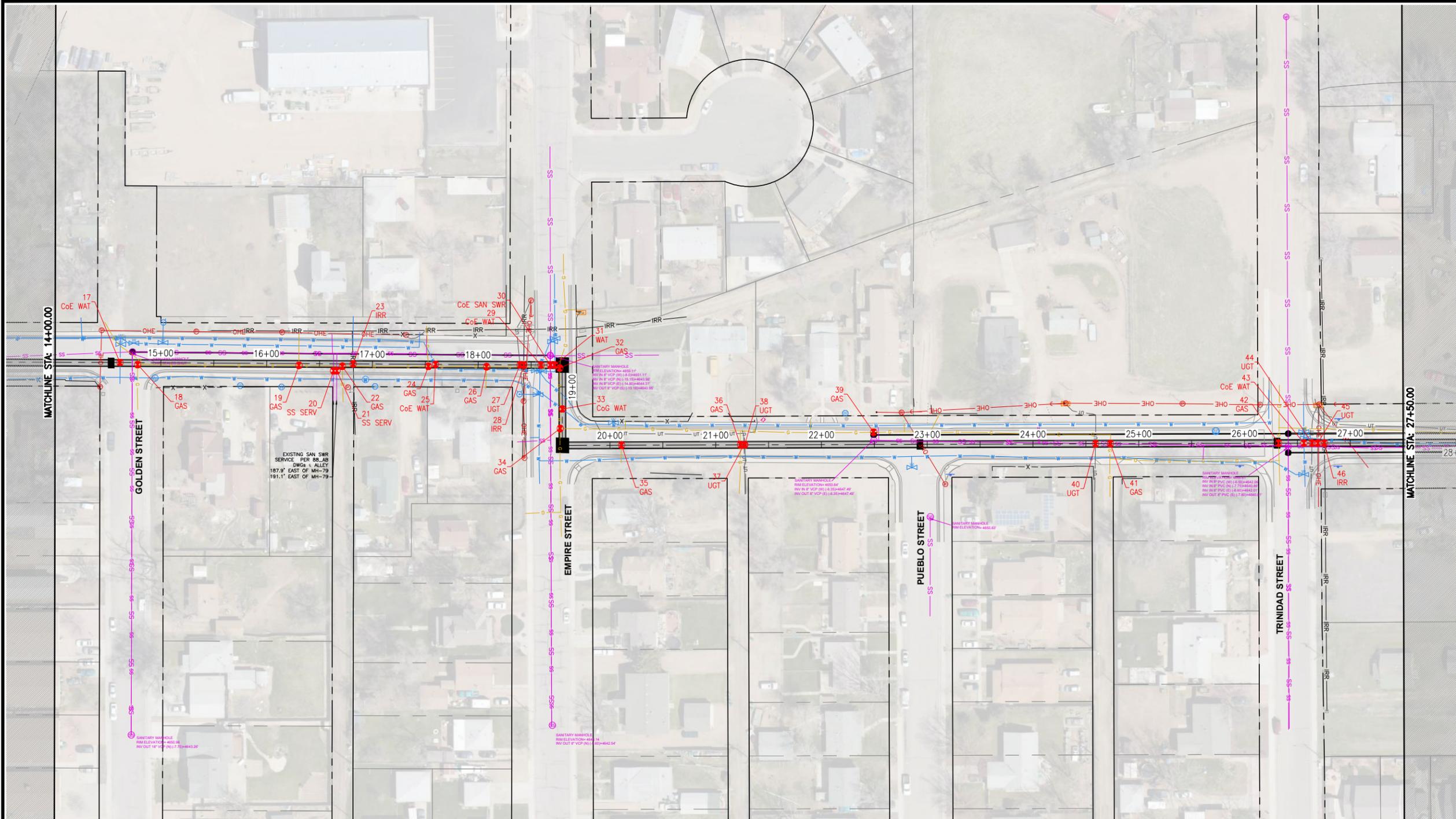
This change order, Change Order #2 (CO #2) was prepared to account for the additional 25 test holes required for SUE support services for the Heritage Inn and 35th Street Outfall project. There are no other changes to the original scope of services at this time.

It should be noted that the survey fee attached herein for CO #2 is based on the assumption that there are 2 test holes remaining. The civil fee is an estimate of addition effort required to coordinate and incorporate into tables, drawings and reports.

35th Street SUE Change Order #2	Project Manager	Project Engineer	Design Engineer	Senior PLS	Lead Surveyor/GPS Processor	Survey Tech	Instrument Person II	One Person Crew	Two Person Crew	Party Chief	Survey Expense	Task Total
2022 Hourly Rates	\$202.00	\$160.00	\$130.00	180.00	\$119.00	\$110.00	\$70.00	\$130.00	\$186.00	\$76.00	1	
SUE Support												
Utility Coordination; SUE Compliance; Due Diligence	10	16										\$4,580.00
Utility Locates; PE Observation												
Utility Potholes; PE Observation; Pothole Log; Utility Conflict Matrix	2		16									\$2,484.00
Utility Drawings	2	8	20									\$4,284.00
SUE Report	2	6										\$1,364.00
QC	2											\$404.00
Expenses											\$ -	
											CIVIL SUBTOTAL	\$13,116.00
SURVEY & FIELD WORK SUPPORT												
Utility Locates Survey by Merrick												
Utility Potholes (assume 9 days, 5 potholes/day; survey by Merrick)	4				6	20	6			24		\$5,966.00
Gas Line Survey and Staking												
Expenses											\$ 500.00	\$500.00
SUBCONTRACTOR: Utility Locates (UCS)												
											SURVEY SUBTOTAL	\$6,466.00

1. Manhour above reflects effort for 25 additional potholes.
 2. Total Change Order #2 amount is \$19,582 (Civil Support = \$13,116, Survey Support = \$6,466). Fee is based on 2022 rates.

Exhibit B



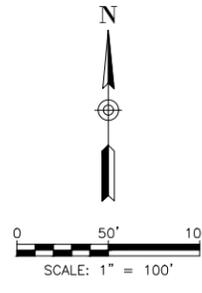
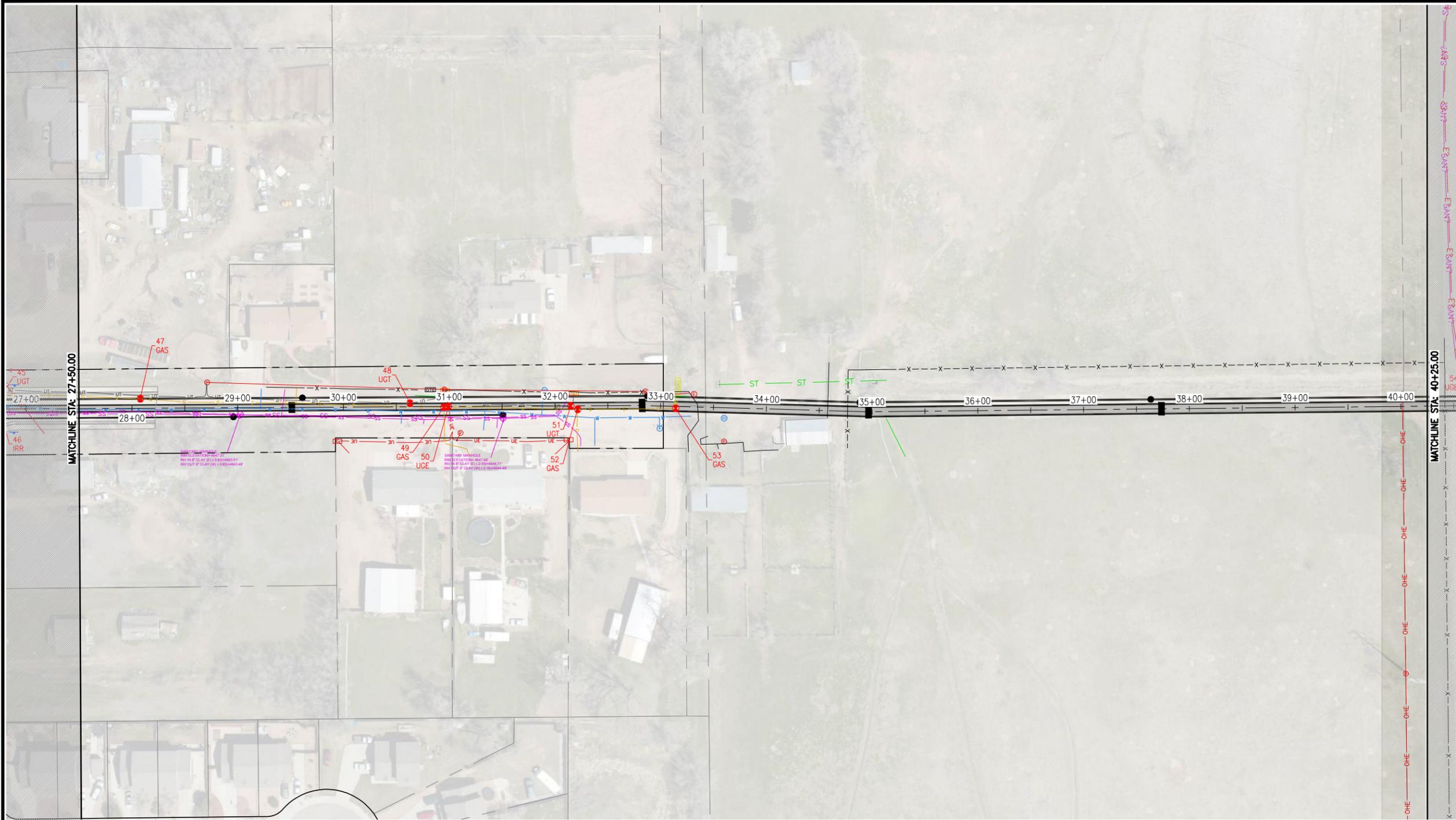
Item # 12.

NO.	DESCRIPTION OF REVISIONS	DATE	BY



CITY OF EVANS - ESSS
 35TH STREET - SUE REQUEST
 SUE_REQ - 2

DRAWN BY:	CAK
DESIGNED BY:	CAK
APPROVED BY:	BPS
DRAWING NAME:	SUE
DATE:	DEC
SHEET:	Page 315
	2 OF 4



Item # 12.

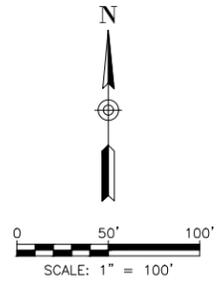
NO.	DESCRIPTION OF REVISIONS	DATE	BY



CITY OF EVANS - ESSS
35TH STREET - SUE REQUEST

SUE REQ - 3

DRAWN BY:	CAK
DESIGNED BY:	CAK
APPROVED BY:	BPS
DRAWING NAME:	SUE
DATE:	DEC
SHEET:	Page 316
	3 OF 4



Item # 12.

NO.	DESCRIPTION OF REVISIONS	DATE	BY



CITY OF EVANS - ESSS
35TH STREET - SUE REQUEST

SUE REQ - 4

DRAWN BY:	CAK
DESIGNED BY:	CAK
APPROVED BY:	BPS
DRAWING NAME:	SUE
DATE	DEC
SHEET	Page 317

4 OF 4

1.5.12 CHANGE ORDER

CHANGE ORDER NO. 01
DATE: 04/05/2022

PROJECT: East Side Storm Sewer – 35th Street Outfall

TO (CONTRACTOR): BT Construction

JUSTIFICATION: Additional Pothole and Subsurface Utility Work associated with design

You are directed to make the following changes in the work. All other terms and conditions of the contract not expressly modified hereby shall remain in full force and effect.

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT COST	AMOUNT
100	Additional Pothole /SUE work	1	LS	\$112,164.94	\$112,164.94

The original contract sum was	\$ <u>41,700.00</u>
Net change by previous change orders	\$ <u>204,589.97</u>
The contract sum prior to this Change Order was	\$ <u>246,589.97</u>
The contract sum will be increased by this Change Order	\$ <u>112,164.94</u>
The new contract sum including this Change Order will be	\$ <u>358,454.91</u>
The new contract time will be unchanged by 0 days.	

The date of completion as of the date of this Change Order is therefore 05/01/2022.

ACCEPTED BY:

BT Construction
Contractor

ORDERED BY:

The City of Evans
1100 37th Street
Evans, CO 80620

Address
9885 Emporia St.
Henderson, CO 80640

By _____

By _____
Mark Oberschmidt, City Engineer

Date _____

Date _____

CITY COUNCIL AGENDA REPORT

DATE: April 04, 2022

SUBJECT: Consideration of Approval of Ashcroft Draw Sewer and Trail Design Contract

PRESENTED BY: James L. Becklenberg, City Manager
Randy Ready, Assistant City Manager
Mark Oberschmidt, P.E., City Engineer

ITEM DESCRIPTION:

Over the last several years, the City has had to perform urgent maintenance work on the Ashcroft Draw Sanitary Sewer main (24 and 30 inch pipe) at several locations to shore up the pipe and prevent spills into the draw. The pipe has been exposed at several locations due to bank erosion during high flow periods in the draw. This pipe exposure situation is caused by the sewer main's relatively shallow location close to the bank of the draw, which consists of highly erodible soils. The current alignment follows the alignment of the draw very closely, requiring multiple turns and more manholes (25 in total) than would normally be installed for 6650 feet of sewer pipe (the standard would be 17 manholes or 1 manhole every 400 feet) presumably to reduce the amount of disturbed farmland along the draw and minimize easement requirements when the pipe was installed in the early 2000s.

To mitigate this serious pipe exposure issue, Evans issued a Request for Proposals to design a new alignment that would be further from the bank to prevent washouts and potentially require fewer manholes by extending the distance between manholes to up to 500 feet. In addition, this project will include the design of a new concrete maintenance trail along the Ashcroft draw that will double as a pedestrian trail for residents. The City and the design team will work with the underlying property owners to minimize impacts on their properties, while establishing a more safe distance between the sewer main/trail and the Draw that will work for the long-term.

The request for proposals was advertised on 01/13/2022 on the Bidnet Government Procurement system and on the City website. A preproposal meeting was held on 01/20/2022 with eight (8) consultants in attendance. Six (6) proposals were received on 02/24/2022. The proposals and fee estimates were submitted as separate documents. The scoring and fee estimates are summarized below. Based on the proposal evaluations and proposed fees, Ditesco Project and Construction Services is being recommended to perform the Ashcroft Draw Sewer and Trail Design work.

FINANCIAL SUMMARY:

The City has budgeted \$284,000 for this design project. The City received six (6) proposals for the work. Staff reviewed the proposals based on their quality and completeness and then added the fee ranking as staff is looking to recommend the lowest responsive consultant to best meet the

needs of the City on this important infrastructure replacement design project and not just the lowest cost consultant.

After reviewing and scoring the proposals, the fees were considered and added into the scoring table with the lowest fee given the highest possible score.

Consultant	Fee	Proposal Score
1. Ditesco	\$159,322	345.33
2. Plummer	\$148,522	331.00
3. Wilson & Company	\$186,820	314.66
4. AE2S	\$269,286	292.65
5. CivilWorx	\$253,780	279.99
6. Sanderson Stewart	\$255,955	270.32

Ditesco has worked successfully in the past with Evans on other projects and is very familiar with this sewer line having worked with the Wastewater department and Garney Construction on the recent repairs of the line where it crosses the Draw along 49th Street. Ditesco provided concept level design work in their proposal along with ideas on the construction and long-term maintenance of the system.

STAFF RECOMMENDATION:

Staff recommends awarding the Ashcroft Draw Sanitary Sewer and Trail Design Contract to Ditesco Project and Construction Services in the amount of \$159,322 with a ~10% contingency to cover any changes that are required due to unknown conditions for a not to exceed amount of \$174,250.

SUGGESTED MOTIONS:

“I move to award the Ashcroft Draw Sanitary Sewer and Trail Design Contract to Ditesco in the amount of \$159,322 with a ~10% contingency to be used only with City Manager approval for a not to exceed amount of \$174,250.”

“I move to deny the award of the contract for the Ashcroft Draw Sanitary Sewer and Trail Design Contract.”

ATTACHMENTS:

- Professional Service Agreement including scope and fee

City of Evans, Colorado
SERVICE AGREEMENT
FOR PROFESSIONAL SERVICES BY
INDEPENDENT CONTRACTOR

THIS AGREEMENT is made and entered into this 4th day of APRIL, 2022, by and between the City of Evans, State of Colorado (hereinafter referred to as the "City"), and **Ditesco Project & Construction Services**. (hereinafter referred to as "Consultant").

RECITALS:

A. The City requires professional services for the design/preparation of the **ASHCROFT DRAW SANITARY SEWER / TRAIL DESIGN PROJECT**. hereinafter referred to as "Project").

B. Consultant has held itself out to the City as having the requisite expertise and experience to perform the required services for the Project.

NOW, THEREFORE, it is hereby agreed, for the consideration hereinafter set forth, that Consultant shall provide to the City professional consulting services for the Project.

I. SCOPE OF SERVICES

Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations and responsibilities for the Project, which are described or reasonably implied from **Exhibit A**, which is attached hereto and incorporated herein by this reference.

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Consultant with reports and such other data as may be available to the City and reasonably required by Consultant to perform hereunder. No project information shall be disclosed by Consultant to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Consultant shall be returned to the City. Consultant is authorized by the City to retain copies of such data and materials at Consultant's expense.

III. OWNERSHIP OF INSTRUMENTS OF SERVICE

The City acknowledges that the Consultant's documents are an instrument of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the services. Any reuse of the Consultant's documents is at the City's own risk without liability to the consultant.

IV. COMPENSATION

A. In consideration for the completion of the services specified herein by Consultant, the City shall pay Consultant on a time and materials basis in an amount not to exceed **ONE HUNDRED AND FIFTY NINE THOUSAND THREE HUNDRED AND FIFTY TWO DOLLARS (\$159,322.00)** Payment shall be made in accordance with the schedule of charges in **Exhibit B**, which is attached hereto and incorporated herein by this reference. Invoices will be itemized and include hourly breakdown for all personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Consultant in performing all services hereunder.

B. Consultant may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the services performed by Consultant under this Agreement, except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Consultant's verified payment request, shall be submitted by Consultant to the City no later than the twenty-fourth (24th) day of each month for payment, pursuant to the terms of this Agreement. In the event Consultant fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Consultant defers its right to payment, pursuant to said late invoice, until the following month.
2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice, as provided by this Agreement. No payment shall be due on the portion of any invoice for which the City has requested clarification unless and until 30 days after clarification satisfactory to the City has been provided by Consultant.

C. The City has the right to ask for clarification on any Consultant invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the timely receipt of the invoice for any uncontested billing, interest will accrue at the rate of twelve percent (12%) per annum compounded annually. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Consultant may, after giving seven (7) days' written notice and without penalty or liability of any nature, suspend all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days' written notice, Consultant may terminate this Agreement. Upon receipt of payment in full for services rendered, Consultant will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Consultant's written notification that services required herein by Consultant have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF SERVICES

Within seven (7) days of receipt from the City of a Notice to Proceed, Consultant shall commence services on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the City, the Project shall be complete and Consultant shall furnish the City the specified deliverables, as provided in **Exhibit A**.

VI. CHANGES IN SCOPE OF SERVICES

A change in the Scope of Services shall constitute any material change or amendment of services which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective or paid, unless authorized by written amendment executed by the City. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, as required by law.

B. The services performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of services in the applicable community.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for all costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports and incidental services or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the services. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Consultant shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VIII. COMPLIANCE WITH LAW

The services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

IX. INDEMNIFICATION

A. “VENDOR shall indemnify and save harmless CITY, from and against all claims, liability, demands, losses, and/or expenses resulting from any negligent act or omission of VENDOR, its agents, subcontractors and suppliers in the performance of services under this Contract. Such duty to indemnify and save harmless CITY shall be for an amount represented by the degree or percentage of negligence or fault attributable to VENDOR. If VENDOR is providing architectural, engineering, design, or surveying services, the obligation to indemnify and pay costs, expenses, and attorneys’ fees, is limited to the amount represented by the degree or percentage of negligence or fault attributable to the VENDOR, or VENDOR’S agents, subcontractors, or suppliers as determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual Contract between VENDOR and CITY. VENDOR’S indemnification obligation shall not be construed to extend to any injury, loss, or damage caused by CITY’S own negligence.”

B. INDEMNIFICATION – COSTS: Consultant agrees, to the extent provided in Paragraph A., above, to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of Consultant or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Consultant also agrees, to the extent provided in Paragraph A. above, to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

X. INSURANCE

A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to Section IX, Indemnification, above, by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

B. Consultant shall procure and maintain and shall cause any subconsultant of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- 1. Worker's compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of services under this Agreement, and

Employer's Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) each claim, Five Hundred Thousand Dollars (\$500,000) disease - policy limit, and Five Hundred Thousand Dollars (\$500,000) disease - each employee.

2. Commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain a severability of interests provision.
3. Professional liability insurance with minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Consultant shall maintain such coverage for at least three (3) years from the termination of this Agreement.
4. The policy required by Paragraph 2, above shall be endorsed to include the City and the City's officers, employees and consultants as additional insureds. Every policy required above shall be primary insurance, with the exception of Professional Liability and Worker's Compensation, and any insurance carried by the City, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by Consultant. No additional insured endorsement to the policy required by Paragraph 2, above shall contain any exclusion for bodily injury or property damage arising from completed operations. Consultant shall be solely responsible for any deductible losses under any policy required above.
5. The certificate of insurance provided for the City shall be completed by Consultant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days' prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Evans
1100 37th Street
Evans, Colorado 80620-2036
Attn: Safety and Risk Management

6. Failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or

the City may offset the cost of the premiums against any monies due to Consultant from the City.

- 7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- 8. The parties hereto understand and agree that the City, its officers and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently Three Hundred Fifty Thousand Dollars (\$350,000) per person and Nine Hundred Ninety Thousand Dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101, et seq., as from time to time amended, or otherwise available to the City, its officers or its employees.

XI. NONASSIGNABILITY

Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party without the written consent of the other.

XII. CONDITIONAL CONTRACT EXTENSION

The City and Consultant may extend the relationship arising under this agreement by a future written agreement that is approved by City Council, subject to annual appropriation, and subject to agreed-upon unit pricing. Such extensions, if any, shall not exceed a period of Five (5) consecutive years. The Consultant does not have a contractual right to an extension and the City expressly reserves all rights to cancel its relationship with Consultant.

XIII. TERMINATION

This Agreement shall terminate at such time as the services in Section I are completed and the requirements of this Agreement are satisfied, or upon the City's providing Consultant with seven (7) days' advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Consultant for all services previously authorized and completed prior to the date of termination. If, however, the Consultant has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If, however, the City has substantially or materially breached the standards and terms of this Agreement, the Contractor shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Consultant.

XIV. CONFLICT OF INTEREST

The Consultant shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such personal or private interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

XV. 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 the County of Weld, State of Colorado.

XVI. INDEPENDENT CONTRACTOR

A. Consultant is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Consultant to perform services under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is the employee of the City for any purposes.

B. Disclosure: Consultant is not entitled to workers' compensation benefits, unemployment insurance benefits unless unemployment compensation coverage is provided by the Consultant or some other entity, and Consultant is obligated to pay federal and state income tax on any moneys earned pursuant to this Agreement for Professional Services by Independent Contractor.

XVII. NO WAIVER

Delays by the City in enforcement of this Agreement or the waiver by the City of any one or more defaults or breaches of this Agreement by the Consultant shall not constitute a waiver of any of the other terms or obligations of this Agreement.

XVIII. ENTIRE AGREEMENT

This Agreement and the attached Exhibits A-B are the entire Agreement between Consultant and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified or changed, except as specified herein.

XIX. NOTICE

Any notice or communication between Consultant and the City which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States mail, addressed as follows:

The City: City of Evans
Attn: City Manager
1100 37th Street
Evans, Colorado 80620-2036

Consultant: **Ditesco Project & Construction Services**
2133 S. Timberline Road, Unit 110
Fort Collins, CO 80525

XX. EFFECTIVE DATE AND EXECUTION

This Agreement shall become effective following execution by both Consultant and City. This Agreement may be executed in counterparts, including by facsimile or electronically, each of which shall be considered an original, but all of which together shall constitute one instrument.

XXI. SPECIAL PROVISIONS

The "Special Provisions" attached hereto as **Exhibit C** and incorporated by this reference are made a part of this Agreement. For purposes of the Special Provisions, the Consultant shall be referred to as the "Contractor."

Exhibit A
Scope of Services

Exhibit A

Ashcroft Draw Sanitary Sewer & Trail Alignment

Design Scope of Services

Project Understanding

The City of Evans (City) is improving the sanitary sewer along Ashcroft Draw from Arrowhead Drive to 49th Street. This sewer alignment will replace an existing pipeline that was installed by the developer of the adjacent property. Since the original installation, the bank of Ashcroft Draw has washed out and exposed the sanitary sewer line multiple times, requiring multiple emergency repairs. The City's goal is to reduce the number of manholes along the alignment, install a more robust piping system, relocate the sanitary sewer line away from the bank of the Draw, improve access for maintenance, and detail property acquisition through permanent easements.

The existing sanitary sewer line is constructed of a combination of 24-inch and 30-inch thin-wall HDPE pipe material. Proposed sanitary sewer line is planned to be constructed of 30-inch PVC, or similar, with precast manholes spaced every 400-500ft along the alignment. Along this same alignment, a trail will be added to provide connectivity from an existing bridge to the south to a future trail alignment and parking area to the north on Arrowhead Drive.

The services provided under this contract are generally expected to include project management, Civil Engineering Design and landscape architecture review for trail alignment, grading, and design, Civil Engineering design and high-level capacity analysis of the proposed sanitary sewer system. Our team will also develop easement descriptions and exhibits to support temporary and permanent access easements for construction and maintenance of the sanitary sewer pipeline and trail. Construction services are not anticipated to be provided at this time and may be added as a subsequent work order.

Phase: Design

- Ditesco will participate in one project kick-off meeting. We will provide meeting agendas, meeting minutes, and action items following this meeting.
- We will schedule and manage virtual weekly project check-in meetings with City staff. As needed, we will provide meeting documentation and action item summaries from these meetings.
- Ditesco will manage design review meetings at the 30%, 60% and 90% levels. We will provide meeting agendas, meeting minutes, and action items following this meeting, as well as comment response logs to address any City comments.
- Our team will complete a topographic survey of the Ashcroft Draw site, anticipated to be a 200-ft wide swath, centered on the existing pipeline. Topographic survey will be completed to a 0.5-ft level of detail.
- To understand property ownership, we will complete Plat research and obtain title work, as needed for properties surrounding the Draw. We will develop easement exhibits for easement acquisition, for both temporary and permanent easements, across the site. Temporary easement development will include easements for staging and access during construction.
- Our team will complete utility potholing for a total of ten (10) soft-surface potholes. It is anticipated potholes will be able to be collected on the shoulders of the road or in soft surfaces, along the draw.
- We will participate in a City-performed CCTV survey of the Ashcroft Draw sewer line. This information will be utilized to understand where services are connected into the sanitary sewer line. It is our understanding a SUE plan is not required and will not be provided.
- Ditesco staff will work with the City's geotechnical consultant, Terracon, to select locations for geotechnical borings, if they have not already been completed. Geotechnical boring information and groundwater depths will be included in the plan and profile drawings, at their representative locations, for contractor reference.

- Our team will develop a sanitary sewer collection model to verify the capacity of the replacement line. This model will be based upon any flow data collected by the City and anticipated future zoning and developments along the Draw.
- We will develop a drawing set for construction for review by the City at 30%, 60%, and 90% efforts. The drawings will be completed on 22x34-inch sheets and the final drawing set is anticipated to include:
 - Cover (1 sheet)
 - General Notes (1-2 sheets)
 - Measurement and payment BOM (1 sheet)
 - Overall site drawing (1 sheet)
 - Existing conditions/Demolition (1-2 sheets)
 - Erosion control drawing (1 sheet)
 - Erosion control details (1-2 sheets)
 - Trail grading drawings (5-7 sheets)
 - Trail detail sheets (1-2 sheets)
 - Overall utility drawing (1 sheet)
 - Sewer plan and profile drawing (8-10 sheets)
 - Sewer detail sheets (1-2 sheets)
- Ditesco will develop an Engineer's Opinion of Probable Cost at the 60%, 90%, and final submittal effort. This will be developed to match a bid tab that can be presented to the Contractor.
- Ditesco will draft a measurement and payment specification to coincide with the City's specification package. Our team will assist the City in packaging the final design specification package, as needed, for bidding.

Phase: Bidding & Construction

Future Phase

Deliverables

- Deliverables will include full project documentation including: meeting agendas and minutes, Civil Engineering Construction Documents, CSI formatted technical specifications, sanitary sewer sizing calculations, and easement exhibits and descriptions. All documents will be provided in an electronic form on external drives for City use.

Schedule

The anticipated schedule for design and construction is as follows:

Design:	April to September 2022
Bidding:	Future, Anticipated January 2023
Construction:	Future, March to July 2023

Fee Estimate

We have based our fee estimate on the following assumptions:

- Geotechnical Investigation and Report by Owner (Terracon)
- CCTV Sanitary Sewer inspection by Owner
- Potholing investigation will be limited to ten potholes
- All property acquisition will be completed by Owner

<i>Estimated Fee:</i>	\$156,967.00
<i>Estimated Reimbursable Expenses:</i>	<u>\$ 2,355.00</u>
<i>Total:</i>	\$159,322.00

A detailed task breakdown is included. Please find this on page 5 of this scope of work proposal.

The fee shown above is to be billed on a time and material not-to-exceed basis based on the rates shown in the table on page 4 of this proposal. All reimbursable expenses will be billed at direct cost.



Ditesco
2021-2022 Wage Rate Schedule

Principal:	\$150.00 – \$195.00 per hour
Project Manager:	\$110.00 - \$160.00 per hour
Construction Manager/Resident Engineer:	\$138.00 - \$160.00 per hour
Project Engineer:	\$95.00 - \$127.00 per hour
Administrative:	\$60.00 to \$85.00 per hour
Engineer:	\$85.00 to \$110.00 per hour
CAD	\$65.00 to \$90.00 per hour
All other costs at direct expense	
Terms	30 days net

**Exhibit B
Fee Schedule**

City of Evans
Ashcroft Draw Sanitary Sewer & Trail Design Project

2/24/2022

Phase/Task Description	Classification					Sub Consultants	Task Total
	Keith Meyer	Jill Burrell / Bill Renz	Dan Egger	Rhonda Bunner	Leslie Brantner		
	Principal	Project Manager	Project Engineer	CAD Design	Admin		
	(hrs)	(hrs)	(hrs)	(hrs)	(hrs)		
	\$150	\$130	\$118	\$85	\$70		
Design Phase - Project Management							\$18,970
2.03 - Contract Management (Invoicing and Budget Management)	0	11	0	0	11		\$2,100
1.02 - Meetings/Correspondence (Design Progress Meetings)							
- Kick-off Meeting	2	4	4	0	2		\$1,432
- Design Progress Meetings	0	62	31	0	0		\$11,718
- Milestone Design Review Meetings (30%, 60%, 90%)	0	15	15	0	0		\$3,720
Design Phase - 30% Construction Documents							\$32,765
1.01 - Design							
- Horizontal Alignment	0	4	4	8	0		\$1,672
- Trail Alignment & Viewsheds	2	12	18	24	0	\$2,338	\$8,362
- Sanitary Sewer Collection Model & Future Zoning Capacity Calcs	2	20	32	0	0		\$6,676
- Drawing Development	0	10	15	36	0		\$6,130
- Design Quality Control	0	4	0	6	0		\$1,030
1.03 - Independent Construction Cost Estimate	0	3	6	0	0		\$1,098
1.05 - Site Investigation (Initial Site Walk, CCTV Sewer, Potholing)	0	6	32	0	0	\$2,875	\$7,431
1.06 - Technical Specifications (TOC)	0	1	2	0	0		\$366
Design Phase - 60% Construction Documents							\$34,675
1.01 - Design							
- Trail Grading & Restoration Drawings	2	4	8	12	0	\$3,905	\$6,689
- Sanitary Sewer Plan & Profile Drawings	0	10	15	24	0		\$5,110
- Drawing Development	0	12	30	64	0		\$10,540
- Phasing Plan	2	4	8	6	0		\$2,274
- Bypass Pumping Plan	0	8	16	20	0		\$4,628
- Bid Tab	0	2	4	4	0		\$1,072
- Design Quality Control	4	6	0	8	0		\$2,060
1.03 - Independent Construction Cost Estimate	0	2	8	0	0		\$1,204
1.06 - Technical Specifications (Measurement and Payment)	0	3	6	0	0		\$1,098
Design Phase - 90% Construction Documents							\$18,777
1.01 - Design							
- Drawing Development	0	8	18	28	0	\$4,373	\$9,917
- Phasing Plan	0	2	4	4	0		\$1,072
- Bypass Pumping Plan	0	4	6	8	0		\$1,908
- Bid Tab	0	1	2	4	0		\$706
- Design Quality Control	2	4	0	2	0		\$990
- Address Review Comments	0	4	8	12	0		\$2,484
1.03 - Independent Construction Cost Estimate	0	2	6	0	0		\$968
1.06 - Technical Specifications (Measurement and Payment)	0	2	4	0	0		\$732
Subconsultant Costs							\$51,781
Potholing Tasks (Kinetic)							
- Traffic Control & Permitting						\$3,035	\$3,035
- Potholing @ \$722/pothole						\$7,219	\$7,219
Surveying Tasks (King Survey)							
- Topographic Survey & Site Investigation						\$27,510	\$27,510
- Title Commitments						\$3,564	\$3,564
- Property/ROW/Base Map & Easements						\$10,454	\$10,454
Other direct costs (mileage, reproduction, etc) at 1.5%							\$2,355
Mileage rate per Fed Standard Rate							
Work Effort Subtotal	16	230	302	270	13		\$156,967
ODCs							\$2,355
Cost per labor category	\$2,400.00	\$29,835.00	\$35,636.00	\$22,950.00	\$875.00	\$65,271.41	
Effort (days)	2	29	38	34	2		
Effort (weeks)	0	6	8	7	0		
Hours per day	0.1	1.3	1.8	1.6	0.1		

Total Contract Value: \$159,322

Assumptions:

- Geotech by Owner (Terracon)
- CCTV investigation will be completed by Evans
- Assume 10 potholes completed
- All property acquisition by Owner

Exhibit C

Special Provisions Required by §§ 8-17.5-101 et seq., C.R.S.

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien and that Contractor has participated or attempted to participate in the basic pilot program administered by the U.S. Department of Homeland Security in order to verify that it does not employ any illegal aliens. §

B. Prohibited Acts. Contractor shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

2. Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. Contractor has verified or attempted to verify through participation in the basic pilot program administered by the U.S. Department of Homeland Security that Contractor does not employ any illegal aliens and, if Contractor is not accepted into the basic pilot program prior to entering into this Agreement, that Contractor shall apply to participate in the basic pilot program every three (3) months until Contractor is accepted or this Agreement has been completed, whichever is earlier.

2. Contractor shall not use basic pilot program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:

i. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph i. hereof, the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.



ADDITIONAL REMARKS SCHEDULE

AGENCY AssuredPartners Colorado		NAMED INSURED Ditesco, LLC 2133 S. Timberline Rd Unit 110 Fort Collins CO 80525	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

The City of Evans, it's officers, employees and consultants are named as additional insureds with respects to all policies that pertain per contract. The General Liability policy is primary and non-contributory to any and all insurance policies held by the Additional Insured's for ongoing and completed operations. A Waiver of Subrogation against the City of Evans, it's officers, employees and consultants applies with respects to all policies that pertain Project 1 Project 2 Project 3

Exhibit A

Ashcroft Draw Sanitary Sewer & Trail Alignment

Design Scope of Services

Project Understanding

The City of Evans (City) is improving the sanitary sewer along Ashcroft Draw from Arrowhead Drive to 49th Street. This sewer alignment will replace an existing pipeline that was installed by the developer of the adjacent property. Since the original installation, the bank of Ashcroft Draw has washed out and exposed the sanitary sewer line multiple times, requiring multiple emergency repairs. The City's goal is to reduce the number of manholes along the alignment, install a more robust piping system, relocate the sanitary sewer line away from the bank of the Draw, improve access for maintenance, and detail property acquisition through permanent easements.

The existing sanitary sewer line is constructed of a combination of 24-inch and 30-inch thin-wall HDPE pipe material. Proposed sanitary sewer line is planned to be constructed of 30-inch PVC, or similar, with precast manholes spaced every 400-500ft along the alignment. Along this same alignment, a trail will be added to provide connectivity from an existing bridge to the south to a future trail alignment and parking area to the north on Arrowhead Drive.

The services provided under this contract are generally expected to include project management, Civil Engineering Design and landscape architecture review for trail alignment, grading, and design, Civil Engineering design and high-level capacity analysis of the proposed sanitary sewer system. Our team will also develop easement descriptions and exhibits to support temporary and permanent access easements for construction and maintenance of the sanitary sewer pipeline and trail. Construction services are not anticipated to be provided at this time and may be added as a subsequent work order.

Phase: Design

- Ditesco will participate in one project kick-off meeting. We will provide meeting agendas, meeting minutes, and action items following this meeting.
- We will schedule and manage virtual weekly project check-in meetings with City staff. As needed, we will provide meeting documentation and action item summaries from these meetings.
- Ditesco will manage design review meetings at the 30%, 60% and 90% levels. We will provide meeting agendas, meeting minutes, and action items following this meeting, as well as comment response logs to address any City comments.
- Our team will complete a topographic survey of the Ashcroft Draw site, anticipated to be a 200-ft wide swath, centered on the existing pipeline. Topographic survey will be completed to a 0.5-ft level of detail.
- To understand property ownership, we will complete Plat research and obtain title work, as needed for properties surrounding the Draw. We will develop easement exhibits for easement acquisition, for both temporary and permanent easements, across the site. Temporary easement development will include easements for staging and access during construction.
- Our team will complete utility potholing for a total of ten (10) soft-surface potholes. It is anticipated potholes will be able to be collected on the shoulders of the road or in soft surfaces, along the draw.
- We will participate in a City-performed CCTV survey of the Ashcroft Draw sewer line. This information will be utilized to understand where services are connected into the sanitary sewer line. It is our understanding a SUE plan is not required and will not be provided.
- Ditesco staff will work with the City's geotechnical consultant, Terracon, to select locations for geotechnical borings, if they have not already been completed. Geotechnical boring information and groundwater depths will be included in the plan and profile drawings, at their representative locations, for contractor reference.

- Our team will develop a sanitary sewer collection model to verify the capacity of the replacement line. This model will be based upon any flow data collected by the City and anticipated future zoning and developments along the Draw.
- We will develop a drawing set for construction for review by the City at 30%, 60%, and 90% efforts. The drawings will be completed on 22x34-inch sheets and the final drawing set is anticipated to include:
 - Cover (1 sheet)
 - General Notes (1-2 sheets)
 - Measurement and payment BOM (1 sheet)
 - Overall site drawing (1 sheet)
 - Existing conditions/Demolition (1-2 sheets)
 - Erosion control drawing (1 sheet)
 - Erosion control details (1-2 sheets)
 - Trail grading drawings (5-7 sheets)
 - Trail detail sheets (1-2 sheets)
 - Overall utility drawing (1 sheet)
 - Sewer plan and profile drawing (8-10 sheets)
 - Sewer detail sheets (1-2 sheets)
- Ditesco will develop an Engineer's Opinion of Probable Cost at the 60%, 90%, and final submittal effort. This will be developed to match a bid tab that can be presented to the Contractor.
- Ditesco will draft a measurement and payment specification to coincide with the City's specification package. Our team will assist the City in packaging the final design specification package, as needed, for bidding.

Phase: Bidding & Construction

Future Phase

Deliverables

- Deliverables will include full project documentation including: meeting agendas and minutes, Civil Engineering Construction Documents, CSI formatted technical specifications, sanitary sewer sizing calculations, and easement exhibits and descriptions. All documents will be provided in an electronic form on external drives for City use.

Schedule

The anticipated schedule for design and construction is as follows:

Design:	April to September 2022
Bidding:	Future, Anticipated January 2023
Construction:	Future, March to July 2023

Fee Estimate

We have based our fee estimate on the following assumptions:

- Geotechnical Investigation and Report by Owner (Terracon)
- CCTV Sanitary Sewer inspection by Owner
- Potholing investigation will be limited to ten potholes
- All property acquisition will be completed by Owner

<i>Estimated Fee:</i>	\$156,967.00
<i>Estimated Reimbursable Expenses:</i>	\$ <u>2,355.00</u>
<i>Total:</i>	\$159,322.00

A detailed task breakdown is included. Please find this on page 5 of this scope of work proposal.

The fee shown above is to be billed on a time and material not-to-exceed basis based on the rates shown in the table on page 4 of this proposal. All reimbursable expenses will be billed at direct cost.



Ditesco
2021-2022 Wage Rate Schedule

Principal:	\$150.00 – \$195.00 per hour
Project Manager:	\$110.00 - \$160.00 per hour
Construction Manager/Resident Engineer:	\$138.00 - \$160.00 per hour
Project Engineer:	\$95.00 - \$127.00 per hour
Administrative:	\$60.00 to \$85.00 per hour
Engineer:	\$85.00 to \$110.00 per hour
CAD	\$65.00 to \$90.00 per hour
All other costs at direct expense	
Terms	30 days net

City of Evans
Ashcroft Draw Sanitary Sewer & Trail Design Project

2/24/2022

Phase/Task Description	Classification					Sub Consultants	Task Total
	Keith Meyer	Jill Burrell / Bill Renz	Dan Egger	Rhonda Bunner	Leslie Brantner		
	Principal	Project Manager	Project Engineer	CAD Design	Admin		
	(hrs)	(hrs)	(hrs)	(hrs)	(hrs)		
	\$150	\$130	\$118	\$85	\$70		
Design Phase - Project Management							\$18,970
2.03 - Contract Management (Invoicing and Budget Management)	0	11	0	0	11		\$2,100
1.02 - Meetings/Correspondence (Design Progress Meetings)							
- Kick-off Meeting	2	4	4	0	2		\$1,432
- Design Progress Meetings	0	62	31	0	0		\$11,718
- Milestone Design Review Meetings (30%, 60%, 90%)	0	15	15	0	0		\$3,720
Design Phase - 30% Construction Documents							\$32,765
1.01 - Design							
- Horizontal Alignment	0	4	4	8	0		\$1,672
- Trail Alignment & Viewsheds	2	12	18	24	0	\$2,338	\$8,362
- Sanitary Sewer Collection Model & Future Zoning Capacity Calcs	2	20	32	0	0		\$6,676
- Drawing Development	0	10	15	36	0		\$6,130
- Design Quality Control	0	4	0	6	0		\$1,030
1.03 - Independent Construction Cost Estimate	0	3	6	0	0		\$1,098
1.05 - Site Investigation (Initial Site Walk, CCTV Sewer, Potholing)	0	6	32	0	0	\$2,875	\$7,431
1.06 - Technical Specifications (TOC)	0	1	2	0	0		\$366
Design Phase - 60% Construction Documents							\$34,675
1.01 - Design							
- Trail Grading & Restoration Drawings	2	4	8	12	0	\$3,905	\$6,689
- Sanitary Sewer Plan & Profile Drawings	0	10	15	24	0		\$5,110
- Drawing Development	0	12	30	64	0		\$10,540
- Phasing Plan	2	4	8	6	0		\$2,274
- Bypass Pumping Plan	0	8	16	20	0		\$4,628
- Bid Tab	0	2	4	4	0		\$1,072
- Design Quality Control	4	6	0	8	0		\$2,060
1.03 - Independent Construction Cost Estimate	0	2	8	0	0		\$1,204
1.06 - Technical Specifications (Measurement and Payment)	0	3	6	0	0		\$1,098
Design Phase - 90% Construction Documents							\$18,777
1.01 - Design							
- Drawing Development	0	8	18	28	0	\$4,373	\$9,917
- Phasing Plan	0	2	4	4	0		\$1,072
- Bypass Pumping Plan	0	4	6	8	0		\$1,908
- Bid Tab	0	1	2	4	0		\$706
- Design Quality Control	2	4	0	2	0		\$990
- Address Review Comments	0	4	8	12	0		\$2,484
1.03 - Independent Construction Cost Estimate	0	2	6	0	0		\$968
1.06 - Technical Specifications (Measurement and Payment)	0	2	4	0	0		\$732
Subconsultant Costs							\$51,781
Potholing Tasks (Kinetic)							
- Traffic Control & Permitting						\$3,035	\$3,035
- Potholing @ \$722/pothole						\$7,219	\$7,219
Surveying Tasks (King Survey)							
- Topographic Survey & Site Investigation						\$27,510	\$27,510
- Title Commitments						\$3,564	\$3,564
- Property/ROW/Base Map & Easements						\$10,454	\$10,454
Other direct costs (mileage, reproduction, etc) at 1.5%							\$2,355
Mileage rate per Fed Standard Rate							
Work Effort Subtotal	16	230	302	270	13		\$156,967
ODCs							\$2,355
Cost per labor category	\$2,400.00	\$29,835.00	\$35,636.00	\$22,950.00	\$875.00	\$65,271.41	
Effort (days)	2	29	38	34	2		
Effort (weeks)	0	6	8	7	0		
Hours per day	0.1	1.3	1.8	1.6	0.1		

Total Contract Value: \$159,322

Assumptions:

- Geotech by Owner (Terracon)
- CCTV investigation will be completed by Evans
- Assume 10 potholes completed
- All property acquisition by Owner

City Managers Weekly City Council Update April 4, 2022

Communications	<ul style="list-style-type: none"> • Staff finalized annual report before printing and shipping • Staff produced April’s Evans Express • Staff produced April’s Evans TV • Staff met with new web developers • Staff managed social media posts
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Finance	<ul style="list-style-type: none"> • Staff has begun working with the City’s municipal financial advisors to identify the timeline and next steps to secure financing for the new police station. • Staff continues to work with the financial auditors to wrap up the audit of 2021 activity. • January Sales Tax Report:
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New Report Format to Start the Year

Starting with the 2022 year, we have more information to share on sales tax collections, and made changes to the report format to make that possible. For the first time budgeted amounts are provided by tax category giving us the ability to see actual performance against planned. We included a bar graph that shows at-a-glance where the tax dollars are coming from. For those who are curious about our sales tax process we added interesting facts. The report is expanded to three pages with landscape orientation to accommodate more information and provide easy reading. We think you’ll appreciate the changes.

The January month is mixed with about half the categories exceeding PY and budget, and half trailing. GF is up \$113k over PY and \$83k over budget. Motor Vehicle had been performing better than expected for much of 2021, so the low amount of tax collected for January was a bit of

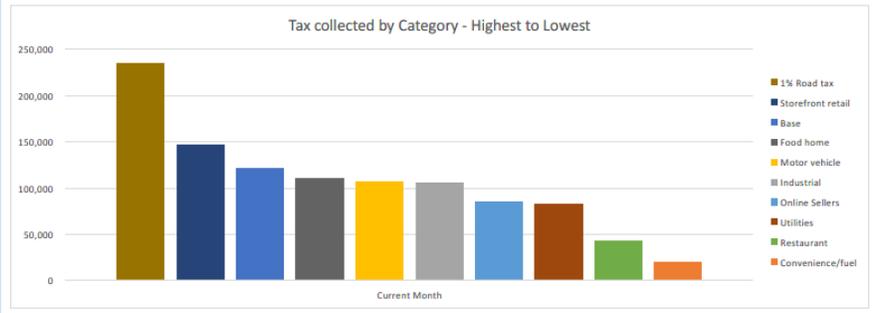
a surprise. MV taxes are collected by Weld County and there is a two-to-three month lag from when a sale is made to payment of taxes to Evans. This would seem to indicate low MV sales in the Oct-Nov months, which likely is a reflection of low inventory at dealerships due to supply chain issues. On the bright side we continue to see significant favorable variances in Industrial and Online Sellers, which is a trend that appears will repeat itself through the year based on the current economic conditions.

Food tax exceeds PY and budget by 9% and 11% respectively. Inflation is a major factor in rising food costs and that trickles down to higher sales taxes collected. Inflation factors in to most tax categories.

Grand total taxes collected for January is \$1,053k, which is \$157k more than PY and \$120k more than budget. The percentage increase is 17% and 13% respectively.

**SALES TAX COLLECTIONS
FOR THE PERIOD ENDED JANUARY 31, 2022**

Tax Category	Current month - January 2022					Variance CY vs.	
	Actual-CY	Actual-PY	Budget	Variance CY vs. PY	% Variance	Budget	% Variance
	Base	121,296	110,587	154,788	10,709	10%	(33,492)
Convenience/fuel	19,886	24,215	24,304	(4,329)	(18%)	(4,418)	(18%)
Industrial	105,597	19,825	14,071	85,772	433%	91,526	650%
Motor vehicle	106,473	132,669	132,160	(26,196)	(20%)	(25,687)	(19%)
Online Sellers	84,608	47,072	68,162	37,536	80%	16,446	24%
Restaurant	43,065	42,149	43,872	916	2%	(807)	(2%)
Storefront retail	145,961	149,069	128,891	(3,108)	(2%)	17,070	13%
Utilities	82,085	70,763	59,731	11,322	16%	22,354	37%
General Fund	708,971	596,349	625,979	112,622	19%	82,992	13%
Food home	109,730	100,380	99,056	9,350	9%	10,674	11%
1% Road tax	234,257	199,691	208,059	34,566	17%	26,198	13%
Grand total	1,052,958	896,420	933,094	156,538	17%	119,864	13%



Human Resources/Risk Management

HR staff, April Smith and Julie Tymkowych recently both achieved their SHRM-CP (Society for Human Resources Management) certification.

Listed below is a summary of recent progress and upcoming recruitment activity:

- Interviews were held this week for the Emergency Management Coordinator position.
- A conditional offer of employment was offered to a candidate for the Property & Evidence Contract Technician position.
- Chandler Stolte, one of the new police officers began employment on March 28. Two additional police officer candidates are still in the background phase.
- Dominic Moreno, PW Maintenance Technician – Streets, will begin his first day on Monday, April 4.
- Interviews are currently being held for the PW Maintenance Technician – Storm position and the Parks Maintenance Technician.
- Second round interviews were held this week for the Management Analyst vacancy.
- The Deputy City Clerk recruitment continues to accept applications.
- A conditional offer of employment is being extended for a Facilities Maintenance Manager.
- The Construction Inspector/Utility Locator recruitment continues to accept applications.
- Staff continues to assist with part-time recruitments for the following: Day Camp Counselor and Concessions & Rentals Specialist. A conditional offer of employment was extended for the Day Camp Director position.

Water Conservation



RE: Irrigation Season Information

March 21, 2022

Dear Evans Resident,

As the irrigation season approaches, the City of Evans Utility Billing Department would like to explain how irrigation water usage is billed each year. Your irrigation water connection is a flexible and unique system, it provides different types of water to you at different times of the year. Before June 15 and after September 15 each year you will receive potable (treated) water through this system. The consumption of the potable water for use in the non-potable irrigation system is billed on the potable tiered rates below:

1,000 - 16,000 gallons	\$5.50 per thousand gallons
16,100 - 22,000 gallons	\$8.69 per thousand gallons
Over 22,000 gallons	\$13.95 per thousand gallons

Non-potable irrigation water serves several others in our Northern Colorado region before and after it reaches Evans. This makes the exact starting date of non-potable water difficult to predict. Usually, non-potable water becomes available to Evans around June 15. Once the non-potable water is available, the water in your irrigation system will switch from potable to non-potable water. The consumption is then billed at the non-potable water rate of \$2.71 per thousand gallons. That provides you with significant savings on your water bill during the summer months. Non-potable water then usually remains available until the end of the billing cycle that ends in mid-September each year. After that date, your irrigation system will again operate on potable water at potable water rates until the end of the irrigation season.

Thank you for the opportunity to provide your water service. Keep in mind that nearly 40% of all City treated water is used for outdoor irrigation between the months of May and October. Please do your part to keep water available and to keep your water rates low by watering your lawn and garden as efficiently as possible.

Remember that Evans does have outdoor watering restrictions in place between April 15th and October 15th. Single-family homes with even-numbered addresses should only water lawns on Sunday, Tuesday, and Thursday of each week and odd-numbered addresses on Monday, Wednesday, and Saturday of each week. Multi-family residents or apartments should only water lawns on Sunday, Tuesday, and Friday of each week. Outdoor watering is allowed on scheduled days except between the hours of noon and 5pm.

Have a great spring and summer and let us know if you have any questions.

Sincerely,

Sam Seslar
 Customer Service and Utility Billing Supervisor
sseslar@evanscolorado.gov
 970-475-1186

Justine Schoenbacher
 Water Conservation Coordinator
jschoenbacher@evanscolorado.gov
 970-475-1168

Planning

City of Evans Land Use Applications							
Name	Case #/Status	Acres	Location	Brief description	PC	CC	CC
Submitted Applications, complete and processing							
Grapevine Hollow, Outlot 11	Final Plat Amendment, 5/15: Application package is incomplete, waiting for applicant to provide mapping package; 7/6: Mapping package provided, out for referrals; Staff comments provided 8/13; Resubmittal was made on 11/11 and staff comments were provided on 1/7/22.	<1	Chardonnay and Laguna Street/ Court SE corner	Subdivide Outlot 11 (former oil and gas site)	NA	TBD	NA
La Playa Sports Bar	Redevelopment plan; staff comments provided 8/19; Resubmittal made early December and comments were returned in early January, 2022	<1	3520 11th Avenue	bring non-conforming property into compliance	NA	NA	DA
Human Bean	Redevelopment Plan, in review, waiting for applicant to resubmit materials; submittal extension granted by the City	<1	23rd Avenue just north of 37th Street	Legalization of a NCU with Redevelopment Plan	NA	SIA	NA
Lujan Industrial Use	Site Plan or Special Use Permit, 5/24: Application is incomplete; waiting for application to provide full application package; Applicant resubmittal was made on 1/21/22	20+/-	49th Street & 23rd Avenue	Industrial use without a land use permit	TBD	TBD	NA
Kuntz Industrial Use	Change of Zone, replat and Special Use Permit-completeness review finished 12/10/21	20+/-	49th Street & 23rd Avenue	Industrial use without a land use permit	TBD	TBD	NA
Hunt Brothers Properties and Asphalt Specialties	Annexation/Zoning, Rezoning, SUP for outdoor storage > 30%, Site plan for Natural Resources Treatment	120+	35th Ave ROW and WR 394	Gravel mine and asphalt batch plant	3/22/2022	4/4/2022	4/19/2022
FNBO Minor Replat	Minor Replat to create parcel lines around ATM Machine	<1	north side of 37th Street and west of 35th Ave	Proposal to create two lots with the replat.	Administrative		NA
Moffat Glass Special Use Permit	Special Use Permit - proposal to allow for	just received - details to follow			TBD	TBD	
Bunting Disposal Special Use Permit		just received - details to follow			TBD	TBD	
Approved Land Use Applications. Pending applicant's delivery of Conditions of Approval, execution of a Site Improvements Agreement or a Development Agreement, and Recording, etc.							
Village Park Apartments	20-SPR-04; Comments provided, waiting on applicant's response and a final landscape plan; conditionally approved without complete submittal	<1	1655 37th St	Applicant to address Conditions of Approval and provide final Site Plan package.			
Dollar General Site Plan and Variance (Development Agreement)	Site Plan for a Retail Store; Variance for landscape buffer requirements	<1	11th Avenue (in front of The Verge)	Commercial/Retail store	2/22/22 BZA	3/15/2022	NA
Idaho/Denver at 42nd Street	Boundary Line Adjustment and engineering review; DRT 4/14/21. DA needed. Held meeting with property owner re engineering requirements for in-fill project 5/5/21; 8/30: Applicant is looking for alternatives, staff has provided concepts to pursue	<1	42nd and Idaho	Consolidation of 14 old town lots into 10 lots for infill development	NA	NA	4/4 DA

The Planning Commission held public hearings on March 22.

- The following Code revisions are in process:
 - Designation of Areas and Activities of State Interest and Code language to support processing of Evans Oil and Gas Location Assessment permits (1041 E-OGLA)
 - Broadband/Telecommunications

Engineering

- 47th Avenue – We have requested a schedule for remobilization from DeFalco as well as a completion date. Tentative schedule for start of construction is the middle of April. Remaining work includes landscaping, irrigation and installation of a stone/concrete retaining wall. Contract reconciliation for the work previously completed has been done.
- Palomino/Human Bean entrance drive grading design is complete for 23rd Avenue Concrete work as part of the 2022 concrete replacement project. Work has begun on the concrete replace in Evans and will get to this driveway replacement in short order.

- East Side Storm Sewer –A progress meeting was held on 03/10 and we are moving forward with final alignment, coordination with Atmos Gas, Greeley Sewer, and XCEL to work out solutions for utility conflicts and proximity to the proposed storm sewer. The plans are also considering the potential development on the SW corner of 85 and 31st Street
- Water Efficiency Program – CDBG subrecipient agreement extension request for fixture replacement program has been approved by Weld County CDBG. Outline has begun for Evans Ditch Study.
- Lagoon Decommissioning – The 2nd change order was approved and staff is waiting for the additional helical piers.
- Evans Industrial Park Storm Drainage Master Plan – Modeling and report are progressing. Staff is reviewing plans and other drainage documents
- 37th Street Widening Ph 1 –City has gotten agreements for all the ROW in phase 1. The last piece of ROW will be presented to City Council on 04/04 and the closings will happen. Staff is planning to advertise by 05/06.
- 37th Street Widening Ph 2 – Staff is reviewing 90% plans and a meeting to go over these plans will be held on 04/06.
- 37th Street Widening Ph 3 –Evans was approved for STBG money from NFR MPO for construction, which is currently scheduled for 2025 at the last NFR MPO council meeting. As this phase extends beyond the limits of the original contract with RockSol, there will be a new contract brought to City Council for approval in the near future.
- 37th Street Widening Ph 4 – Arrowhead to 47th Ave – the design team will continue work on this section of the project beginning after bid advertisement for phase 1.
- Greeley Water Customers Transfer to Evans – Coordination for the replacement of the final meter transfer will be addressed by the 37th St. Widening project
- Wiedeman Irrigation Line Purchase & Carriage Agreement – Mr. Wiedeman and his attorney have completed their review and will be providing the City with their comments soon. Both parties are in agreement to proceed with the sale of the irrigation system
- Staff continues to assist Planning in determination of potable water dedication requirements (EQRs) for several current and future proposed projects.
- 2021 Waterline Design Projects
 - State Farm - Plans are moving forward for the State Farm project with CD's and bid packages are close to completion
 - 35th Street - Staff informed Ditesco to hold off on the further design of the 35th Crossing and the State Farm Sewer until we have more information on the ESSS 35th Street storm outfall. We are close to getting the final alignment of the storm sewer so we can then adjust the waterline alignment and profile to work around the storm sewer and other utilities.
 - 37th Street – the additional geotech work is complete and the design team is currently looking at boring options. We will meet with Ditesco 04/01 to go over this plan
 - Construction of these projects is pushed off until 2023 at the earliest.
- Utility Master Planning – Staff met with CWCWD and Greeley to discuss regional water issues including diversifying Evans water portfolio between the two entities. Staff is working on IGA revisions for the renewal of the IGA with Greeley in 2023 and developing an IGA with CWCWD. A presentation

	<p>to City Council is scheduled for 04/04/2022. A presentation will be made to the W&S on 03/17.</p> <ul style="list-style-type: none">• Idaho Street – DeFalco is nearing completion of the waterline installation. Staff anticipates the waterline work will be complete by the end of next week at which time they will begin the storm sewer work.• 23rd Avenue Widening – Plans are essentially complete and staff is preparing bid packages for advertisement in Early April. Staff is still coordinating ROW acquisition with 4 of the property owners.• 2021 Road Maintenance<ul style="list-style-type: none">○ Road Scanning –Scanning complete and staff is coordinating with the consultant to process the data and upload it into our system so we can use it in maintenance planning. A presentation to City Council is scheduled to occur in April.• 2022 Road Maintenance<ul style="list-style-type: none">○ Crack Seal Project to begin week of 3/14 to 3/18 weather permitting.○ Concrete replacement kicked off this week.• Small projects<ul style="list-style-type: none">○ A non-potable irrigation lateral will be installed along the north side of Mission Homestead from the Willowbrook non potable system to irrigate 23rd Avenue.○ The inlet and storm sewer at the NW corner of 35th Avenue and 37th Street will be repaired requiring some lane closures during the construction.• 2022 Wastewater Utility Master Plan- A RFP was issued on 03/17 and a pre-proposal meeting was held on 03/24. Proposals are due on 04/21.
Police	<ul style="list-style-type: none">• Staff continues to raise money for the Polar Plunge. We’re near \$1,500 now, but we’re still working to get more for our athletes. Please donate and participate if you would like > https://www.classy.org/team/406995
Parks	<ul style="list-style-type: none">• Staff assisted with repairing potholes.• Staff finished laying out sport fields for Recreation programs.• Staff are removed damaged agility components at Freedom Park and are working with a contractor on repairs.• Staff are making repairs to restrooms and preparing them to be opened on April 15th.• Staff located 2 spaces at the Cemetery for monument installation.• Staff removed damaged picnic tables at Prairie View Park and are working to find new tables.• Staff continue recruitment for the two vacant positions in Parks.
Wastewater Operations	<ul style="list-style-type: none">• Staff have completed the Preventative maintenance hydro cleaning and CCTV inspection of the Chappelow neighborhood.• Staff collected and transported effluent and river samples to Commerce City for Reg. 85 and metals analysis.• Staff performed preventative and repair maintenance on the UV disinfection system at the treatment plant.• Staff cleaned and inspected the 6 DO and 12 ORP probes on the aeration basins.

BioVelocity

- BioVelocity is onsite removing Biosolids from the wasting lagoons at the treatment plant. They have removed 40 dry tons so far with 200 dry tons remaining.

PW Operations

- Staff have been repairing potholes on 37th St, 49th St, 35th Ave, and 47th Ave.
- Staff have been busy preparing the Evans Ditch so water will be available for customers on April 15th.
- Staff continue recruiting for the vacant positions in Streets & Stormwater.
- Staff completed 30 work orders for items related to water meters, high usage, and new meter installation.

Recreation

- Spring sports numbers have surpassed expectations. 444 kiddos are participating in spring volleyball, soccer, and flag football. That’s only 50 children less than the 2019 spring season and 87 more than the fall 2019 season. Metrics are used from fall 2019 because that is a season with three sports and this season is the first time we’re offering spring flag football.
- Last call for bunny baskets!

The flyer features the Burns Recreation logo at the top left with the tagline "Striving for excellence through innovation and positive experiences." The main title "BUNNY BASKETS" is in large, bold, pink letters with a blue outline. Below it, the price "\$10 PER BASKET" is displayed in black. A line of text states "EACH BASKET COMES WITH 20 CANDY-FILLED EGGS, AN EGG DYING KIT, ACTIVITIES AND MORE!". The ordering information is "Order by April 8 to pickup on Thursday, April 14 or Friday, April 15." The central image shows a woven brown basket filled with five colorful Easter eggs (orange, blue, yellow, purple, and pink) and green sprigs with small pink hearts. At the bottom, contact information is provided: "1100 37th Street, Evans, CO | 970-475-1125 | recreation@evanscolorado.gov | www.evanscolorado.gov/recreation".

- Day camp registration started on Monday, March 28 and there are already 28 signed up!

UPDATED: 3/1/22

EVANS RECREATION

WEEKLY RATES: **\$200**

EVANS SUMMER DAY CAMP

MONDAY-FRIDAY | 7:30 AM - 5:30 PM
5-11 YEAR OLDS

MAY 31 - AUGUST 5
NO CAMP JULY 4-8

\$1300 | ALL-SUMMER
\$1250 | ALL-SUMMER ADDITIONAL CHILD
\$600 | 4-WEEK SESSION (JUNE 6-JULY 1 OR JULY 11-AUGUST 5)

REGISTRATION BEGINS MARCH 28TH

1100 37TH ST | EVANS, CO 80620 | 970-475-1125 | RECREATION@EVANSOLORADO.GOV