

TOWN OF BERTHOUD
Larimer & Weld County, Colorado

RESOLUTION NO. 13-09

**A RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BERTHOUD,
COLORADO MAKING CERTAIN FINDINGS OF FACT AND CONCLUSIONS BASED
THEREON WITH RESPECT TO THE ELIGIBILITY FOR ANNEXATION OF A
PARCEL OF LAND TO THE TOWN OF BERTHOUD
(LUDLOW FARMS ANNEXATION)**

WHEREAS, Smilin' 11, LLC, a Colorado limited liability company, S. Reid Ludlow and Jean E. Cowles (together "Annexor") are the sole owners of all property being annexed to the Town except for public rights of way and roads (within the meaning of § 31-12-107(1)(g) of the Colorado Municipal Annexation Act, C.R.S. §§ 31-12-101, *et seq.* (the "Act")) of that certain real property located in Larimer County, Colorado, more fully described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Annexor desires to annex the Property to the Town of Berthoud, Colorado (the "Town") and to that end has filed a petition for annexation of the Property into the Town, pursuant to the Act and Chapter 30-8 of the Berthoud Development Code (the "Code"); and

WHEREAS, the Town Board of the Town of Berthoud, Colorado (the "Town Board") found on June 23, 2009 that the Annexor's petition for annexation was in substantial compliance with the Act and the Code and set a date for a public hearing to be held to determine whether the proposed annexation complies with C.R.S. §§ 31-12-104 and 31-12-105, as required to establish the Property's eligibility for annexation (the "Public Hearing"); and

WHEREAS, following notice of the Public Hearing given as required by C.R.S. § 31-12-108(2), the Town Board has this day held the Public Hearing on such eligibility for annexation in accordance with the requirements of C.R.S. §§ 31-12-108 and 31-12-109; and

WHEREAS, in conformance with C.R.S. § 31-12-110, the Town Board examined the petition for annexation, annexation map and related filings for the Property and wishes to make certain findings of fact and conclusions as more fully set forth herein.

NOW THEREFORE, BE IT RESOLVED by the Town Board of the Town of Berthoud, Colorado, as follows:

FINDINGS OF FACT AND CONCLUSIONS

Section 1. The above findings and recitals are incorporated herein as findings of fact and conclusions of the Town Board.

Section 2. The requirements of the applicable parts of C.R.S. §§ 31-12-104 and 31-12-105 have been met with respect to the proposed annexation of the Property to the Town.

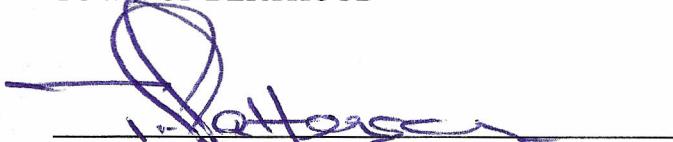
Section 3. An election is not required under C.R.S. § 31-12-107(2).

Section 4. No additional terms or conditions are to be imposed except as provided in the petition for annexation. A development agreement will be entered into between the Annexor and the Town, the terms of which are not considered additional terms and conditions within the meaning of C.R.S. §§ 31-12-107(1)(g), 31-12-110(2) or 31-12-112, with the understanding that the "development agreement" be approved by the Town and the Annexor contemporaneously with the adoption of the annexation ordinance.

Section 5. The Property is eligible for annexation into the Town.

INTRODUCED, READ, PASSED, ADOPTED AND APPROVED AT A REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF BERTHOUD this 25th day of August, 2009.

TOWN OF BERTHOUD



T.P. Patterson, Mayor

ATTEST:

By: Mary K Cowdin
Mary Cowdin, Town Clerk

APPROVED AS TO FORM:

BY: R.B. Fickel
R.B. Fickel, Attorney

EXHIBIT A
(Legal Description)

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 22 AND THE EAST HALF OF SECTION 22, TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 22, WHENCE THE NORTH ONE-QUARTER OF SECTION 22 BEARS SOUTH $88^{\circ}43'55''$ WEST 2,645.34 FEET; THENCE ALONG THE EAST LINE OF SECTION 22 SOUTH $00^{\circ}41'14''$ EAST 30.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID EAST LINE SOUTH $00^{\circ}41'14''$ EAST 2,623.05 FEET TO THE EAST ONE-QUARTER OF SECTION 22; THENCE SOUTH $89^{\circ}43'43''$ WEST 30.00 FEET; THENCE SOUTH $00^{\circ}05'27''$ EAST 1,981.44 FEET; THENCE NORTH $88^{\circ}31'36''$ WEST 10.00 FEET; THENCE SOUTH $00^{\circ}05'27''$ EAST 672.22 FEET; THENCE ALONG THE SOUTH LINE OF THE EAST HALF OF SECTION 22 SOUTH $88^{\circ}58'41''$ WEST 1,284.43 FEET; THENCE NORTH $00^{\circ}00'00''$ EAST 15.02 FEET TO A POINT 0.50 FEET NORTH OF THE SOUTHERLY FENCE LINE OF THE LUDLOW FARMS PROPERTY; THENCE ALONG A LINE 0.50 FEET NORTH OF AND PARALLEL TO THE FENCE LINE THE FOLLOWING SIX COURSES; 1) THENCE SOUTH $87^{\circ}58'10''$ WEST 188.67 FEET; 2) THENCE NORTH $89^{\circ}44'42''$ WEST 152.83 FEET; 3) THENCE SOUTH $89^{\circ}41'13''$ WEST 204.24 FEET; 4) THENCE SOUTH $89^{\circ}27'38''$ WEST 219.93 FEET; 5) THENCE SOUTH $89^{\circ}09'36''$ WEST 232.13 FEET; 6) THENCE NORTH $88^{\circ}08'48''$ WEST 107.18 FEET TO A POINT ON THE EASTERLY CDOT RIGHT-OF-WAY LINE OF STATE HIGHWAY 287; THENCE ALONG SAID LINE SOUTH $07^{\circ}32'40''$ EAST 25.76 FEET TO A POINT ON THE SOUTH LINE OF THE EAST HALF OF SECTION 22; THENCE ALONG SAID LINE SOUTH $88^{\circ}58'41''$ WEST 223.67 FEET TO THE SOUTH ONE-QUARTER OF SECTION 22; THENCE ALONG THE SOUTH LINE OF THE WEST HALF OF SECTION 22 SOUTH $88^{\circ}58'41''$ WEST 69.78 FEET; THENCE NORTH $00^{\circ}20'26''$ WEST 836.70 FEET; THENCE NORTH $05^{\circ}22'04''$ EAST 201.00 FEET; THENCE NORTH $00^{\circ}20'26''$ WEST 287.99 FEET; THENCE NORTH $88^{\circ}55'36''$ EAST 79.79 FEET; THENCE NORTH $00^{\circ}20'26''$ WEST 3,311.46 FEET; THENCE SOUTH $89^{\circ}47'26''$ WEST 30.00 FEET; THENCE NORTH $63^{\circ}52'51''$ WEST 33.51 FEET; THENCE NORTH $00^{\circ}20'26''$ WEST 612.75 FEET; THENCE NORTH $88^{\circ}49'17''$ EAST 60.01 FEET; THENCE SOUTH $00^{\circ}20'26''$ EAST 249.73 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 613.00 FEET, A CENTRAL ANGLE OF $33^{\circ}44'09''$, CHORD OF SAID ARC BEARS NORTH $44^{\circ}09'06''$ EAST 355.74 FEET) A DISTANCE OF 360.94 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 56; THENCE ALONG SAID SOUTH LINE NORTH $88^{\circ}43'55''$ EAST 2,366.17 FEET TO THE POINT OF BEGINNING CONTAINING 318.224 ACRES MORE OR LESS.