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**LETTER OF INTENT – RENEWAL OF VARIANCE OF USE
3745 MULBERRY ROAD, YODER, COLORADO
August 10, 2021**

OWNER:

Mulberry Ridge LLC
5025 Brady Rd.
Colorado Springs, Colo. 80915
Ph. 443-253-6811

APPLICANT:

Chris Richardson, CMG Corp.
6615 Vincent Dr.
Colorado Springs, Colo. 80918
Ph. 719-492-5076

LOCATION:

3475 Mulberry Rd.
Yoder, Colo. 80864

SIZE OF THE PROPERTY: 35.45 acres

ZONING: A-35 agricultural

REQUEST: This application is a request to renew a previously approved Variance of Use for an observatory and related facilities on the Property, and to expand the variance to add up to four additional telescopes and their supporting facilities on the Property. The observatory located on the Property is a critical component of operations supporting the United States Space Command. The term requested for the renewed Variance of Use is for the duration of the current government contract, which is 9 years.

JUSTIFICATION: The original Variance of Use was approved by the Board of County Commissioners in 2000 under VA-00-017 for a 5-year period. The Variance of Use was renewed in February 2011 under VA-10-003, which expired in December 2019 at the same time the prior operator’s government contract to operate the telescope for Space Command expired. The current government contractor, L3 Harris, assumed the contract in January 2021 for a 9-year term. In order to continue the critical operations for Space Command performed on the Property, the Property owner must obtain the renewal and enlargement of the existing Variance of Use. It is believed the justification for prior approval and renewal of the existing Variance of Use was due to the exceptional circumstances of supporting our local military installations in the performance of their work to keep our country and those of our allies safe. The rural location of the Property, with no light



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pollution, along with the large size of the Property and its relatively close proximity to the military installations, makes the location ideal for an observatory supporting Space Command.

The applicant seeks renewal of the Variance of Use and to add up to four (4) additional telescopes and related facilities for the new government contractor operating the telescope facility for Space Command. The observatory is a critical part of Space Command's mission to defend space on behalf of our country and its allies. The telescopes will be used for the viewing of stars and celestial bodies during the day and night. Much of the facility's operation will take place remotely.

This facility has been in continuous operation for 21 years without any complaints from neighbors. The facility generates minimal traffic. Other than the developed area of the Property (approximately 3 acres), the rest of the Property remains undeveloped and is undisturbed rangeland that is available for migration and use by wildlife. The Property is not accessible to the public.

The hours of operation of the facility vary. The work done at the facility occurs day and night, and is predominantly operated remotely. Employees of the government contractor operating the facility will be present on site when needed for repairs, maintenance, and operation. No noise is created by the facility because all equipment is located inside buildings.

EXISTING/PROPOSED FACILITIES, STRUCTURES, ROADS, ETC.: The existing facility is located in the northern part of the Property and is reached by an interior improved gravel road from Mulberry Road. The existing telescope and all facilities are contained within a locked gate and a high chain link fence. In addition to the existing telescope, there is a one-story modular building, garage, communications tower and related utilities facilities currently located on the Property.

The existing road will be expanded and form a loop to serve the new facilities that are graphically shown on the Site Plan accompanying this Letter of Intent. The existing modular building will be improved with a handicap ramp on the west and north side to allow improved access from the gravel parking lot on the west of the facilities site. New underground electric and telecommunications lines will be installed to serve the existing and new facilities constructed on the Property. As shown in the Site Plan, there will be up to four additional telescopes of various sizes installed on the Property in a number of new structures. Two rectangular buildings to house the required technology for the telescopes will be installed next to the telescopes, along with an additional electrical transformer and power distribution panel. All new facilities will be surrounded by a chain link fence and will be safely secured by the government contractor operating this facility for Space Command.

Like the Property, the surrounding neighborhood is zoned A-35 and the adjacent parcels contain single family homes. The applicant received no responses from neighbors in opposition to this renewal application after



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sending the adjacent property owner notification letter. To the applicant’s knowledge, no neighbor has ever complained about the facility in the 21 years it has existed on the Property.

Traffic Impact:

Based on Average Daily Trips (ADT) defined as one vehicle visiting the site equaling two trips, during construction of the new facilities, there will be at most 60 trips per day. After construction, normal operations will have no more than 30 trips per day. The applicant estimates there will be construction traffic for 4 months and then normal daily operations of no more than 15 vehicles at the site on an intermittent basis.

CRITERIA FOR APPROVAL: This application complies with all criteria for renewal of an existing Variance of Use under Section 5.3.4 of the Land Development Code (“Code”), as follows.

1. The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.

The A-35 zoning on the Property does not allow commercial use; however, the Variance of Use for this military observatory has been in effect for 21 years on the Property without complaint. Strict application of the Code to now prohibit the use of this Property for an observatory under the existing Variance of Use would result in exceptional practical difficulties because the observatory would have to be relocated to a similarly situated location (e.g., dark skies, rural) elsewhere. While the applicant seeks an enlargement of the telescope facility as part of this renewal application, the use of the Property to aid the United States Space Command in its mission to protect our country and its allies prevails over the strict application of the A-35 zoning restrictions.

2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety or welfare of the inhabitants of the area and County.

As stated above, this Space Command facility has existed on the Property for over two decades. The rest of the Property (approximately 32 acres of the 35-acre parcel) that is not within the improved area where the telescopes are located is natural rangeland, which is characteristic of the surrounding area. Any future development of the area must take this secure military support facility into account. Given the facility’s longevity on this Property, it is proven there is no detriment to the health, safety or welfare of the area inhabitants or the County.

3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project.

The existing observatory has been used for the viewing of the stars and celestial bodies during the day and night. As much of the operation of this facility will take place remotely, there will be minimal human intrusion on the Property. No additional site lighting will be installed due to the need for reduced light pollution for the telescopes. There is no noise as all activities are conducted inside buildings. Water use will be minimal as no personnel live on site. The only water use will be for restrooms. The construction and use of this facility will meet all air, water, noise and odor standards established by the County and other government authorities.

4. The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action.

The use of this Property as an observatory in support of military space operations for the past 21 years without complaint shows that the Variance of Use, as renewed, will continue in compliance with all applicable County and other governmental regulations. The new facilities will be constructed in compliance with all County, State and federal regulations.

5. The proposed use will not adversely affect wildlife or wetlands.

There are no wetlands on the Property. Other than the approximately 3-acre site where the observatory is located, the rest of the 35-acre Property is fenced by barbed wire and remains in native grass and shrubs. The area for the new telescopes and related facilities will be fenced with a chain link fence with the existing improvements and will not impact wildlife.

6. The applicant has addressed all off-site impacts.

There will be limited off-site impacts. The new buildings will nominally increase the impervious surface of the Property, but not so significantly as to have storm water runoff emanate off the Property. The roads will remain gravel surfaced.

7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening and landscaping.

There will not be increased traffic or use of the facility by more than the current number of personnel who are on site intermittently. Landscaping consists of trees around the main buildings. The existing parking area will not be enlarged. The road is an existing, well maintained gravel driveway with a concrete entrance, a culvert under the entrance, and steel gates securing the Property. The existing gravel road will be extended to create a loop road around the new facilities. The entire improved area will be surrounded by a chain link fence and monitored with security equipment. The rest of the Property will remain as natural rangeland.



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8. *Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.*

As there are no plans for an increase in personnel at the facility than currently exists, there will be no change to sewer, water, storm water drainage, fire and police protection than what currently exists. The existing well and septic will not be modified because the number of personnel on site on an intermittent basis will not change from current use. The new facilities create a small footprint and will not adversely affect the storm water runoff. There will be an additional gravel road constructed that will encircle the new facilities. To aid police and fire protection services, the applicant has obtained from the County enumerations department individual addresses for each of the observatories, as shown on the Site Plan.

9. *The variance of use is in compliance with the County Master Plan, including the Policy Plan and the Water Master Plan.*

A. Your El Paso Plan: The County recently adopted a new master plan as a comprehensive planning guide for future development and land use in El Paso County. The *Your El Paso Master Plan* contains the following Key Area Core Principle in Chapter 3, Land Use, and underlying Goal 6.1, both of which support the use of this Property to sustain our military installations, in particular, the United States Space Command:

Military Installations Core Principle: Foster effective working relationships with military installations to support planning efforts and mutual success.

Goal 6.1 - Support compatible land uses within and in close proximity to bases and associated facilities.

B. Policy Plan. An element of the Master Plan is the Policy Plan, which establishes goals and policies in connection with approval of new development in the County. Section 7.0 of the Policy Plan provides for planning for special and unique land uses. This application is subject to the following Issues, Goals and Policies:

ISSUE 7.1 Effectively Plan for Special and Unique Land Uses

Goal 7.1 *Reasonably accommodate unique and special uses which provide value to the greater community and which can be made consistent with surrounding uses.*

Policy 7.1.2 *Consider the future combined impact of potential additional land use requests when considering individual applications for special or unique land uses.*

ISSUE 7.2 Plan for Institutional Uses

Goal 7.2 Promote comprehensive planning for major institutional land uses.

Policy 7.2.3 Allow for the reasonable accommodation of neighborhood-scale institutional uses in all areas of the County.

The military is a significant factor in our region’s economy and well-being. The renewal of the Variance of Use on the Property and the expansion of use on a pre-existing site that has been successful for both the military and the rural area in which the Property is located, as shown by no neighbor complaints in 21 years and no desire by the military to relocate the observatory, provides substantial value to our community.

C. Water Master Plan. This application meets the following goals of the Water Master Plan:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Goal 6.1.2 – Promote water conservation.

Approval of the renewal of the Variance of Use and the expansion of the facilities at the same site promotes water conservation (e.g., a new site would require a duplicate well and septic system) and ensures there are additional water resources available to the County for other development. The Property already has a well and septic system. Use of the Property (and associated water use) by personnel will remain intermittent as in the past.