TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Agenda

Urban Renewal Authority

Tuesday, October 14, 2025 | **6:30 PM** | **Council Chambers**

Link to Watch or Comment Virtually: https://bit.ly/URA10-14-2025

I. Call Meeting to Order

6:30 p.m.

II. Roll Call

III. Approval of the Agenda

IV. Consent Agenda

6:30-6:35 p.m.

25-523 Approval of the September 9, 2025 Urban Renewal Authority Meeting Minutes

Attachments: 09-09-2025 URA Minutes

25-511 A Resolution of the Board of Commissioners of the Town of Erie Urban Renewal Authority Approving a First Amendment to the Pledge Agreement with the Nine Mile Metropolitan District and the Associated Omnibus Certificate

Attachments: Resolution 25-037

First Amendment to Pledge Agreement

Omnibus Certificate

Town Consent Letter

Nine Mile DDA - Compiled

V. Public Comment

6:35-6:45 p.m.

VI. Executive Session

25-571 Executive session to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a); to hold a conference with the Authority's General Counsel to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); and to determine positions relative to matters that may be subject to

negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e); all regarding a potential urban renewal development in Old Town Erie.

6:45-7:15 p.m.

Vii. Adjournment

7:15 p.m.

TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Urban Renewal Authority

Board Meeting Date: 10/14/2025

File #: 25-523, **Version:** 1

SUBJECT:
Approval of the September 9, 2025 Urban Renewal Authority Meeting Minutes

DEPARTMENT: Administrative Operations

PRESENTER(S): Kelsey Thede, Deputy Town Clerk

TIME ESTIMATE: 0 minutes
For time estimate: please put 0 for Consent items.

FISCAL SUMMARY:
NA

POLICY ISSUES:
NA

STAFF RECOMMENDATION:
Approve the minutes from the September 9, 2025 Urban Renewal Authority Meeting.

SUMMARY/KEY POINTS
NA

BACKGROUND OF SUBJECT MATTER:
NA

TOWN COUNCIL PRIORITY(S) ADDRESSED:
☐ Attractive Community Amenities
☐ Engaged and Diverse Community
☐ Prosperous Economy
☐ Well-Maintained Transportation Infrastructure
☐ Small Town Feel
☐ Safe and Healthy Community
☒ Effective Governance

☐ Environmentally Sustainable
☐ Fiscally Responsible

ATTACHMENT(S):

1. 09-09-2025 URA Minutes

TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Minutes

Urban Renewal Authority

Tuesday, September 9, 2025 | **6:30 PM** | **Council Chambers**

Link to Watch or Comment Virtually: https://bit.ly/URA2025-InPerson

I. Call Meeting to Order

Chair Moore called the meeting to order at 6:30 p.m.

II. Roll Call

Present 11 - Dan Hoback, Ashraf Shaikh, Andrew Moore, Anil Pesaramelli, Brandon Bell, Brian O'Connor, Emily Baer, John Mortellaro, Meosha Babbs, Owin Orr, and Lynette Peppler

III. Approval of the Agenda

Vice Chair Bell made a motion to approve the agenda. Commissioner Babbs seconded the motion. The motion passed by the following vote at 6:31 p.m.

Aye: 11 - Commissioner Hoback
Commissioner Shaikh
Commissioner Moore
Commissioner Pesaramelli
Commissioner Bell
Commissioner O'Connor
Commissioner Baer
Commissioner Mortellaro
Commissioner Babbs
Commissioner Orr
Commissioner Peppler

IV. Consent Agenda

25-429 Approval of the July 8, 2025 Urban Renewal Authority Meeting Minutes

Attachments: 07-08-2025 URA Minutes

Commissioner Mortellaro made a motion to approve the Consent Agenda. Vice Chair Bell seconded the motion. The motion passed by the following vote at 6:32 p.m.

Aye: 11 - Commissioner Hoback
Commissioner Shaikh
Commissioner Moore
Commissioner Pesaramelli
Commissioner Bell
Commissioner O'Connor
Commissioner Baer
Commissioner Mortellaro
Commissioner Babbs
Commissioner Orr
Commissioner Peppler

V. Public Comment

With no speakers in person or online virtually, Chair Moore opened and closed Public Comment at 6:32 p.m.

VI. Executive Session

Vice Chair Bell made a motion to go into Executive Session. Commissioner Peppler seconded the motion. The motion passed by the following vote at 6:33 p.m.

Chair Moore stated that the meeting would adjourn at the end of Executive Session.

Aye: 11 - Commissioner Hoback
Commissioner Shaikh
Commissioner Moore
Commissioner Pesaramelli
Commissioner Bell
Commissioner O'Connor
Commissioner Baer
Commissioner Mortellaro
Commissioner Babbs
Commissioner Orr
Commissioner Peppler

25-498 EXECUTIVE SESSION: To hold a conference with the Authority's general counsel to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-24-6-402(4)(c); and to consider the purchase, acquisition, lease, trans or sale of real, personal or other property, pursuant to C.R.S. § 24-24-6-402(4)(a); for which a topic cannot be disclosed with compromising the purpose of the executive session

VII. Adjournment

Approved _____
Mayor

Attest _____
Town Clerk

Urban Renewal Authority

Board Meeting Date: 10/14/2025

File #: 25-511, **Version:** 1

SUBJECT:
A Resolution of the Board of Commissioners of the Town of Erie Urban Renewal Authority Approving a First Amendment to the Pledge Agreement with the Nine Mile Metropolitan District and the Associated Omnibus Certificate

DEPARTMENT: Economic Development

PRESENTER(S): Julian Jacquin, Director of Economic Development & TOEURA
Malcolm Fleming, Town Manager/TOEURA Executive Director

TIME ESTIMATE: 0 minutes
For time estimate: please put 0 for Consent items.

FISCAL SUMMARY:
Approval of Resolution 25-037 allows the Nine Mile Metropolitan District (NMMD) to refinance its 2020 bonds for public improvements at Nine Mile Corner in the Highway 287 URA Plan Area, in alignment with the Nine Mile DDA. TOEURA and the Town Council approved the 11th Amendment to the Nine Mile DDA on April 22, 2025, increasing the maximum TIF cap from $12.8M to $13.2M. The NMMD must now amend their pledge agreement to refinance their bonds to access the additional $400,000 in the project fund to pay for eligible public improvements. There is no fiscal impact to the Town or the URA from the refinancing; this refinancing allows the Metro District to access the $400K today to repay Evergreen for their public improvement costs. This does not change the amount of TIF the Metro District is entitled to nor the timeline for paying the Metro District the full amount of TIF.

POLICY ISSUES:
The policy issue is whether to support the NMMD's request to refinance their bonds to access additional funds to pay for necessary public improvements at the Nine Mile Corner retail center, as approved by the 11th Amendment to the Nine Mile DDA.

STAFF RECOMMENDATION:
Approve Resolution 25-037.

SUMMARY/KEY POINTS

- Amends the Pledge Agreement between TOEURA and the NMMD to raise the TIF cap to $13.2M and sets a 1% administrative fee to TOEURA.
- Allows TOEURA to provide more TIF revenues to NMMD, in accordance with the Nine Mile DDA. Allows the NMMD to refinance their District bonds, accessing an additional $400,000 in the project fund to pay for eligible public improvements.
- Provides the lender refinancing the District bonds with legal and financial assurances about TOEURA's pledge and the updated DDA terms.

BACKGROUND OF SUBJECT MATTER:

In 2015, the Town of Erie adopted the Highway 287 Urban Renewal Plan to support redevelopment of the Nine Mile Corner area. In 2016, the Town of Erie Urban Renewal Authority (TOEURA), the Town, and Evergreen Devco executed a Disposition and Development Agreement (DDA), now amended 11 times, most recently on April 22, 2025, to update cost caps, revenue pledges, and administrative provisions.

To finance public infrastructure, the Nine Mile Metropolitan District (the "NMMD") issued Special Revenue Bonds in 2020 backed by tax increment revenues (property and sales tax growth within the URA Plan Area) pledged by TOEURA. Nine Mile Corner is now complete, and NMMD has used its $12.8M project fund for public improvements. On April 22, 2025, TOEURA, the Town, and Evergreen Devco amended the DDA to increase the maximum TIF cap to $13.2M, adding $400,000 to support remaining costs.

The NMMD now plans to refinance its 2020 bonds through a 2025 Special Revenue Refunding and Improvement Loan to access the additional $400,000 funding.

Two actions are needed for closing:

- First Amendment to Pledge Agreement: Updates the 2020 pledge to reflect new DDA terms, including the increased $13.2M TIF cap and TOEURA administrative fee, and clarifies definitions and revenue flow so future refundings are secure.

- Omnibus Certificate: Confirms TOEURA's legal standing, approvals, and revenue pledge so the lender refinancing the District bonds can rely on the updated TIF structure for repayment.

Approval of these items keeps the financing aligned with updated agreements, supports repayment of public improvement costs, and maintains clear and enforceable revenue pledges for the Nine Mile project.

TOWN COUNCIL PRIORITY(S) ADDRESSED:

☒ Attractive Community Amenities
☐ Engaged and Diverse Community

☒ Prosperous Economy
☐ Well-Maintained Transportation Infrastructure
☐ Small Town Feel
☐ Safe and Healthy Community
☒ Effective Governance
☐ Environmentally Sustainable
☒ Fiscally Responsible

ATTACHMENT(S):

1. Resolution 25-037
2. First Amendment to the Pledge Agreement
3. Omnibus Certificate
4. Town Consent Letter (to be considered by Town Council)
5. Nine Mile DDA - Compiled

Town of Erie Urban Renewal Authority
Resolution No. 25-037

A Resolution of the Board of Commissioners of the Town of Erie Urban Renewal Authority Approving a First Amendment to the Pledge Agreement with the Nine Mile Metropolitan District and the Associated Omnibus Certificate

Whereas, on October 30, 2020, the Authority and Nine Mile Metropolitan District (the "District") entered into a Pledge Agreement; and

Whereas, the Parties wish to amend the Agreement.

Now Therefore be it Resolved by the Board of Commissioners of the Town of Erie Urban Renewal Authority that:

Section 1. The First Amendment to Pledge Agreement and Omnibus Certificate are hereby approved in substantially the form attached hereto, subject to approval by the Authority's General Counsel. Upon such approval, the Chair is authorized to execute the First Amendment and Omnibus Certificate on behalf of the Authority.

Adopted this 14th day of October, 2025.

_____
Andrew J. Moore, Chair

Attest:

_____
Debbie Stamp, Town Clerk

First Amendment to Pledge Agreement

This **First Amendment to Pledge Agreement** (the "**First Amendment to Pledge Agreement**") is entered into this 14th day of October, 2025 (the "**Effective Date**"), by and between **Town of Erie Urban Renewal Authority** (the "**Authority**"), a corporate body created and existing as an urban renewal authority within the Town of Erie under the Urban Renewal Law (as hereinafter defined), and **Nine Mile Metropolitan District**, a quasi-municipal corporation and a political subdivision duly organized and existing under the constitution and laws of the State of Colorado (the "**District**").

Whereas, the District is a quasi-municipal corporation and political subdivision duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado, including particularly Title 32, Article 1, C.R.S.; and

Whereas, the District was organized by Order and Decree of the District Court in and for Boulder County issued on January 27, 2020 and recorded in the Boulder County real property records on February 4, 2020 at Reception No. 03764280; and

Whereas, the District is authorized by Title 32, Article 1, Part 1, C.R.S., to furnish certain public facilities and services, subject to the limitations of its Service Plan (as hereinafter defined), including water, sanitation, street, safety protection, park and recreation, transportation, television relay and translation, limited fire protection, and mosquito control improvements and services within and without the boundaries of the District (collectively, the "**Public Improvements**"); and

Whereas, the Authority is responsible for carrying out the Highway 287 Urban Renewal Plan (as more particularly defined herein, the "**Urban Renewal Plan**") in the Highway 287 Urban Renewal Plan Area (as more specifically identified in the Urban Renewal Plan, the "**Urban Renewal Area**"); and

Whereas, the District is located wholly within the boundaries of the Urban Renewal Area; and

Whereas, the Authority, the Town of Erie (the "**Town**") and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company, have previously entered into the Disposition and Development Agreement, dated as of March 22, 2016 (the "**Original DDA**"), as supplemented and amended by the First Amendment to the Disposition and Development Agreement, dated as of December 13, 2016 (the "**First Amendment**"), the Second Amendment to the Disposition and Development Agreement, dated as of May 9, 2017 (the "**Second Amendment**"), the Third Amendment to Disposition and Development Agreement, dated as of December 12, 2017 (the "**Third Amendment**"), the Fourth Amendment to Disposition and Development Agreement, dated as of May 8, 2018 (the "**Fourth Amendment**"), the Fifth Amendment to Disposition and Development Agreement, dated as of August 13, 2019 (the "**Fifth Amendment**"), that certain Sixth Amendment to Disposition and Development Agreement, dated as of

October 22, 2019 (the "**Sixth Amendment**"), the Seventh Amendment to Disposition and Development Agreement, dated as of May 13, 2020 (the "**Seventh Amendment**"), the Eighth Amendment to Disposition and Development Agreement, dated as of September 30, 2020 (the "**Eighth Amendment**"), the Ninth Amendment to Disposition and Development Agreement, dated as of September 14, 2021 (the "**Ninth Amendment**"), the Tenth Amendment to Disposition and Development Agreement, dated as of March 26, 2024 (the "**Tenth Amendment**"), and the Eleventh Amendment to Disposition and Development Agreement, dated as of April 22, 2025 (the "**Eleventh Amendment**", and, together with the Original DDA, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Ninth Amendment, and the Tenth Amendment, the "**DDA**"); and

Whereas, pursuant to the DDA, the Authority previously approved a tax increment plan for the reimbursement of Eligible Costs (as defined in the DDA) from certain Pledged Property Tax Increment Revenue (as defined in the DDA) and certain Pledged Sales Tax Increment Revenue (as defined in the DDA and collectively with the Pledged Property Tax Increment Revenue, the "**Pledged Revenues**") authorized to be received by the Authority pursuant to the Urban Renewal Plan during the Urban Renewal Plan Term (as hereinafter defined) that are generated by the development of the Retail Property-Phase 1 (as defined in the DDA) and the Residential Property (as defined in the DDA); and

Whereas, the Authority approved and adopted Resolution No. 6 on June 4, 2019 consenting to the organization of the District within the Urban Renewal Area; and

Whereas, the District previously issued its Special Revenue Bonds, Series 2020 (the "**Series 2020 Bonds**") pursuant to that certain Indenture of Trust, dated as of October 30, 2020 (the "**Indenture**"), by and between the District and UMB Bank, n.a., as trustee thereunder; and

Whereas, a portion of the proceeds of the Series 2020 Bonds were used to finance the costs of certain Public Improvements; and

Whereas, the District previously entered into that certain Pledge Agreement, dated as of October 30, 2020 (the "**Original Authority Pledge Agreement**"), by and between the District and the Authority in order to apply the Pledged Revenues authorized to be received by the Authority under the DDA to secure the repayment of the Series 2020 Bonds pursuant to the Indenture and any bonds which may be issued in the future to refund the Series 2020 Bonds (collectively, the "**Bonds**"); and

Whereas, pursuant to Section 5.2(d) of the DDA, the Authority agreed to pay to the District the Pledged Revenues and pledged such Pledged Revenues to the District, subject to the terms and provisions of the DDA; and

Whereas, at the time of issuance of the Series 2020 Bonds, the amendments made to the DDA pursuant to the Ninth Amendment, the Tenth Amendment and the Eleventh Amendment were not in effect; and

Whereas, the collective amendments made to the DDA by the Ninth Amendment, the Tenth Amendment and the Eleventh Amendment provide, in part, that the Tax Increment Cap (as defined in the DDA) shall be increased to $13,200,000 from $12,800,000 and that the Authority shall be entitled to an annual administrative fee in connection with the Authority's obligations under the DDA, which annual administrative fee equals one percent of the incremental property tax revenues received by the Authority generated within the Urban Renewal Plan boundary; and

Whereas, the collective amendments made to the DDA by the Ninth Amendment, the Tenth Amendment and the Eleventh Amendment described in the preceding clause result in the additional pledge of revenues to the District by the Authority pursuant to the DDA and the Authority and the District desire to amend the Original Authority Pledge Agreement in order to further effectuate such pledge of the Pledged Revenues by the Authority to the District under the DDA; and

Whereas, the Original Authority Pledge Agreement contained certain definitions which were defined by reference back to the Indenture for the Series 2020 Bonds and the Authority and the District now desire to directly provide the definitions within the body of the Original Authority Pledge Agreement in the event that any other District Obligations are ever issued by the District in the future and/or the Indenture for the Series 2020 Bonds is ever defeased; and

Whereas, Section 5.06(e) of the Original Authority Pledge Agreement provides that the Original Authority Pledge Agreement may be amended or supplemented by the parties, that any such amendment or supplement must be in writing, must be executed by all parties, and must be in conformance with the requirements set forth in Article X of the Indenture relating to the Original Authority Pledge Agreement and/or any similar requirements set forth in any Governing Instruments relating to any bonds, notes or other financial obligations which may be issued by or on behalf of the District to refund the Series 2020 Bonds; and

Whereas, Article X of the Indenture relating to Series 2020 Bonds and the Original Authority Pledge Agreement provides that the Original Authority Pledge Agreement may be amended, changed or modified by the Authority and the District without the consent of or notice to the registered owners (the "**Owners**") of any Bonds as shown on the registration books maintained by the Trustee if such amendment, change or modification pledges additional revenues to the District, is required by the provisions of the Original Authority Pledge Agreement or is for the purpose of curing any ambiguity or formal defect or omission, including, without limitation, ministerial errors, so long as such cure does not materially adversely affect the interests of the Owners of the Bonds; and

Whereas, the District is not a party to the DDA, but is a party to the Original Authority Pledge Agreement, and the Authority and the District now desire to enter into this First Amendment to Pledge Agreement in order to further effectuate the pledge of the Pledged Revenues by the Authority to the District under the DDA, to conform the Original Authority Pledge Agreement to the various amendments described above which were made to the DDA by the Ninth Amendment, the Tenth Amendment and the Eleventh Amendment and to clarify, and set forth, certain terms in the Original Authority Pledge Agreement directly in the body thereof for ease and to prevent ministerial errors in the event that the Indenture for the Series 2020 Bonds is ever defeased; and

Whereas, all capitalized terms used and not otherwise defined in this First Amendment to Pledge Agreement shall have the meanings ascribed to them in the Original Authority Pledge Agreement unless specifically amended herein; and

Now, Therefore, for and in consideration of the promises and the mutual covenants and stipulations herein, the parties hereby agree as follows:

ARTICLE I

Definitions and Authority

Section 1.01. Definitions. Except as modified by this First Amendment to Pledge Agreement, all words and phrases defined in the Original Authority Pledge Agreement shall have the same meaning in this First Amendment to Pledge Agreement.

Section 1.02. Authority. This First Amendment to Pledge Agreement is executed pursuant to the provisions of the Original Authority Pledge Agreement, Article X of the Indenture relating to the Series 2020 Bonds, and any similar requirements set forth in any Governing Instruments relating to any bonds, notes or other financial obligations which may be issued by or on behalf of the District to refund the Series 2020 Bonds.

ARTICLE II

Amendments

Section 2.01. Amendments.

(a) The following definitions set forth in Section 1.02 of the Original Authority Pledge Agreement are hereby amended and restated as follows:

"*Agreement*" means, collectively, the Original Authority Pledge Agreement and the First Amendment to Pledge Agreement, as the same may be supplemented and amended from time to time in accordance with the provisions hereof, thereof and the applicable Governing Instruments.

"*Effective Date*" means (a) with respect to the Original Authority Pledge Agreement, the date of the Original Authority Pledge Agreement and (b) with respect to the First Amendment to Pledge Agreement, the date of the First Amendment to Pledge Agreement.

"*Indenture*" means the Indenture of Trust, dated as of October 30, 2020, by and between the District and the Trustee pursuant to which the Series 2020 Bonds were issued, as the same may be supplemented or amended from time to time in accordance with the provisions thereof.

"*Operations Deduction*" means the amount reasonably budgeted by the District to pay the District's administrative, operations and maintenance expenses, but not in excess of the following: (i) for collection in calendar year 2020, up to the amount of $200,000, and (ii) for collection in each calendar year thereafter, up to the amount of the Operations Deduction for the prior year plus up to an additional 1.00% of that amount. The Operations Deduction shall be deposited by the District to the Operations and Maintenance Fund.

"*Operations and Maintenance Fund*" (a) with respect to the Series 2020 Bonds, shall have the meaning set forth in the Indenture and (b) with respect to any other District Obligations, shall have the meaning set forth in the resolution, indenture, agreement or other instrument(s) governing such District Obligations.

"*Pledged Property Tax Increment Revenue*" shall have the meaning ascribed thereto in the DDA.

"*Pledged Sales Tax Increment Revenue*" shall have the meaning ascribed thereto in the DDA.

"*Trustee*" means (a) with respect to the Series 2020 Bonds, UMB Bank, n.a., in Denver, Colorado, or any successor thereof and (b) with respect to any other District Obligation, the trustee, paying agent, custodian, lender or other administrative agent acting as such with respect to the applicable District Obligation under the applicable Governing Instrument.

(b) The following new definitions are hereby added to Section 1.01 of the Original Authority Pledge Agreement as follows:

"*Eleventh Amendment*" shall have the meaning ascribed thereto in the recitals of the First Amendment to Pledge Agreement.

"*First Amendment to Pledge Agreement*" means that certain First Amendment to Pledge Agreement, dated as of October 14, 2025, by and between the Authority and the District, as the same may be amended from time to time in accordance with the provisions hereof, thereof and the applicable Governing Instruments.

"Original Authority Pledge Agreement" means that certain Pledge Agreement, dated as of October 30, 2025, by and between the Authority and the District, as the same may be amended from time to time in accordance with the provisions thereof and the applicable Governing Instruments.

(c) The definition of "Maximum OMA Amount" set forth in Section 1.01 of the Original Authority Pledge Agreement is deleted.

(d) Section 2.02(a) of the Original Authority Pledge Agreement is hereby amended and restated as follows:

> "(a) *Pledge of Pledged Revenues under DDA to the District*. The Authority hereby pledges the Authority's right, title and interest in and to the Pledged Revenues to the District for the purpose of paying and securing the Series 2020 Bonds pursuant to the Indenture and any other bonds, notes, or other financial obligations which may be issued by or on behalf of the District in the future to refund the Series 2020 Bonds (collectively, the "**Bonds**") and to secure the Operations Deduction set forth under the Indenture with respect to the Series 2020 Bonds and set forth under the Governing Instrument with respect to any other District Obligations. The lien of the District on the Pledged Revenues shall constitute a first priority and exclusive lien thereon. The District shall pledge its interest in and to the Pledged Revenues to the Trustee under the Indenture and any other applicable Governing Instrument for the benefit of the Bondholders of the Series 2020 Bonds and any other District Obligations Outstanding from time to time, and the pledge of the Pledged Revenues to the various District Obligations Outstanding from time to time shall have the priority set forth in the applicable Governing Instruments."

(e) Section 2.03 of the Original Authority Pledge Agreement is hereby amended and restated as follows:

> "**Section 2.03. Covenant of Further Assurances**. The Authority covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such further acts, instruments, and transfers as the District or the Trustee may reasonably require for the better assuring, transferring, and pledging unto the District the Pledged Revenues to secure repayment of the Bonds and to secure the Operations Deduction set forth under the Indenture with respect to the Series 2020 Bonds and set forth under the Governing Instrument with respect to any other District Obligations."

(f) Section 2.04 of the Original Authority Pledge Agreement is hereby amended and restated as follows:

"**Section 2.04. Survival of Payment Obligation**. The obligations of the Authority under the DDA and this Agreement to enforce and remit the Pledged Revenues in accordance herewith in order to secure repayment of the District Obligations and to secure the Operations Deduction set forth under the Indenture with respect to the Series 2020 Bonds and set forth under the Governing Instrument with respect to any other District Obligations shall constitute the "Payment Obligation" of the Authority, but only for so long as such revenues are authorized to be remitted to the special fund of the Authority under the Urban Renewal Plan. In addition, and without limiting the generality of the foregoing, the Payment Obligation of the Authority shall survive any court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of any of the directors of the District to properly disclose, pursuant to Colorado law, any potential conflicts of interest related hereto in any way."

ARTICLE III

Miscellaneous

Section 3.01. Pledge of Revenue. The creation, perfection, enforcement, and priority of the Authority's pledge under this First Amendment to Pledge Agreement to the District of the Pledged Revenues for the purpose of securing its Payment Obligation under the Agreement shall be governed by Section 11-57-208, C.R.S. and the Agreement. The Pledged Revenues shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such persons have notice of such lien.

Section 3.02. No Recourse against Officers and Agents. Pursuant to Section 11-57-209, C.R.S., if a member of the Authority or any officer or agent of the Authority acts in good faith, no civil recourse shall be had against such member, officer, or agent for payment or performance of the Authority's Payment Obligation hereunder. Such recourse shall not be available either directly or indirectly against the Authority, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this First Amendment to Pledge Agreement and as a part of the consideration hereof, the District and, by execution of the Indenture and any other Governing Instrument, the Trustee, each, for themselves and on behalf of the Bondholders from time to time, specifically waive any such recourse.

Section 3.03. Conclusive Recital. Pursuant to Section 11-57-210, C.R.S., this First Amendment to Pledge Agreement is executed and delivered pursuant to certain provisions of the Supplemental Act, and this recital is conclusive evidence of the validity and the regularity of this First Amendment to Pledge Agreement after its delivery for value.

Section 3.04. Limitation of Actions. Pursuant to Section 11-57-212, C.R.S., no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization, execution, or delivery of this First Amendment to Pledge Agreement shall be commenced more than thirty days after the authorization of this Agreement.

Section 3.05. Miscellaneous.

(a) This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this First Amendment to Pledge Agreement and supersedes all prior and contemporaneous understandings or agreements of the parties. This First Amendment to Pledge Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this First Amendment to Pledge Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this First Amendment to Pledge Agreement.

(b) If any term or provision of this First Amendment to Pledge Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this First Amendment to Pledge Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this First Amendment to Pledge Agreement. If any provision or part thereof of this First Amendment to Pledge Agreement is stricken in accordance with the provisions hereof, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(c) This First Amendment to Pledge Agreement may not be assigned or transferred by any party without the prior written consent of each of the other parties; provided, however, that the District shall be entitled to pledge all right, title and interest of the District in and to this First Amendment to Pledge Agreement to the Trustee in order to secure repayment of the Bonds.

(d) This First Amendment to Pledge Agreement shall be governed by and construed under the applicable laws of the State of Colorado.

(e) This First Amendment to Pledge Agreement may be amended or supplemented by the parties, but any such amendment or supplement must be in writing, must be executed by all parties, and must be in conformance with the requirements set forth in Article X of the Indenture relating to the Series 2020 Bonds for so long as such bonds are Outstanding and/or any similar requirements set forth in any Governing Instruments relating to any bonds, notes or other

financial obligations which may be issued by or on behalf of the District to refund the Series 2020 Bonds.

(f) Each party has participated fully in the review and creation of this First Amendment to Pledge Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this First Amendment to Pledge Agreement. The language in this First Amendment to Pledge Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

(g) This First Amendment to Pledge Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(h) Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this First Amendment to Pledge Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

(i) Each of the Authority and the District shall have the right to access and review each other's records and accounts, on reasonable times during each of the Authority's and the District's regular office hours, for purposes of determining compliance by each of the Authority and the District with the terms of this First Amendment to Pledge Agreement. Such access shall be subject to the provisions of Public Records Act of the State of Colorado contained in Article 72 of Title 24, C.R.S. In the event of disputes or litigation between the parties hereto, all access and requests for such records shall be made in compliance with the Public Records Act.

(j) The Authority covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of its obligations hereunder.

Section 3.06. Effective Date and Termination Date. This First Amendment to Pledge Agreement shall become effective on the Effective Date and, subject to the provisions of Section 2.02(c) of the Original Authority Pledge Agreement, shall remain in effect until the Termination Date unless earlier terminated pursuant to mutual written agreement of the Authority and the District; provided, however, that if any District Obligations are Outstanding, any such earlier termination of this Agreement shall be subject to the applicable provisions of all Governing Instruments then in effect. On the Termination Date, this First Amendment to Pledge Agreement shall be deemed fully satisfied, all obligations of the parties hereto shall be discharged, and this First Amendment to Pledge Agreement shall terminate and no longer be of any force or effect.

Section 3.07. Requirements Met. All requirements of the Original Authority Pledge Agreement and Article X of the Indenture relating to the Series 2020 Bonds and all conditions precedent for execution and delivery of this First Amendment to Pledge Agreement have been satisfied.

Section 3.08. First Amendment to Pledge Agreement Construed with Original Authority Pledge Agreement. All of the provisions of this First Amendment to Pledge Agreement shall be deemed to be and construed as part of the Original Authority Pledge Agreement to the same extent as if fully set forth therein.

Section 3.09. Original Authority Pledge Agreement as Supplemented and Amended to Remain in Effect. Save and except as expressly supplemented and amended hereby, the Original Authority Pledge Agreement shall continue in full force and effect.

Section 3.10. Confirmation of Actions. All action (not inconsistent with the provisions of this First Amendment to Pledge Agreement) heretofore taken by each of the District and the Authority, directed toward the transactions contemplated by this First Amendment to Pledge Agreement is hereby ratified, approved and confirmed.

Section 3.11. Representations. Each party hereto hereby represents and warrants that it has been duly authorized to execute this First Amendment to Pledge Agreement (including obtaining all necessary consents), that this First Amendment to Pledge Amendment has been validly executed, and that, as applicable, the Original Authority Pledge Agreement, as hereby amended, constitutes a valid and binding obligation enforceable against each such party in accordance with its terms.

[End of First Amendment to Pledge Agreement; Signatures Appear on Following Page]

In Witness Whereof, the authorized officers of the Authority and the District have executed this First Amendment to Pledge Agreement as of the day and year first above written.

Town of Erie Urban Renewal Authority

By_____
Andrew J. Moore, Chair

Attest:

_____
Debbie Stamp, Town Clerk

Nine Mile Metropolitan District

By_____
Tyler Carlson, President

Attest:

_____
Erika Shorter, Secretary

[Signature Page to First Amendment to Pledge Agreement]

Omnibus Certificate of the Town of Erie Urban Renewal Authority

$13,735,000
Nine Mile Metropolitan District
(In the Town of Erie, County of Boulder, Colorado)
Special Revenue Refunding and Improvement Loan
Series 2025

October 14, 2025

This Omnibus Certificate (this "**Certificate**") of the Town of Erie Urban Renewal Authority (the "**Authority**") is being executed and delivered in connection with the issuance of the above-captioned loan (the "**Loan**") by Nine Mile Metropolitan District, in the Town of Erie, County of Boulder, Colorado (the "**District**").

A. The Loan is being issued pursuant to that certain Loan Agreement, dated as of October 21, 2025 (the "**Loan Agreement**"), by and between the District and NBH Public Finance, LLC (the "**Lender**").

B. The Loan is secured, in part, by certain Pledged Property Tax Increment Revenue (as defined in the Loan Agreement) and certain Pledged Sales Tax Increment Revenues (as defined in the Loan Agreement).

C. The Town of Erie Board of Trustees (now Town Council) created the Town of Erie Urban Renewal Authority (the "**Authority**"), a corporate body created and existing as an urban renewal authority within the Town under the Colorado Urban Renewal Act, Section 31-25-101, et seq., C.R.S. (the "**Urban Renewal Law**").

D. By Resolution No. 15-126, adopted September 22, 2015, by the Town of Erie Board of Trustees (now Town Council), the Town designated the Highway 287 Urban Renewal Plan Area (the "**Urban Renewal Area**") as an urban renewal area within the meaning of the Urban Renewal Law.

E. By Resolution No. 15-126 adopted September 22, 2015, by the Town of Erie Board of Trustees (now Town Council), the Town approved the Highway 287 Urban Renewal Plan (the "**Urban Renewal Plan**") for the redevelopment of the Urban Renewal Area.

F. The Authority is authorized to transact business and exercise its powers as an urban renewal authority within the Town under the Urban Renewal Law.

G. In furtherance of the Urban Renewal Plan, the Authority entered into the Disposition and Development Agreement, dated as of March 22, 2016 (the "**Original DDA**"), as supplemented and amended by the First Amendment to the Disposition and Development Agreement, dated as of December 13, 2016 (the "**First Amendment**"),

then Second Amendment to the Disposition and Development Agreement, dated as of May 9, 2017 (the "**Second Amendment**"), the Third Amendment to the Disposition and Development Agreement, dated as of December 12, 2017 (the "**Third Amendment**"), that certain Fourth Amendment to the Disposition and Development Agreement, dated as of May 8, 2018 (the "**Fourth Amendment**"), then Fifth Amendment to the Disposition and Development Agreement, dated as of August 13, 2019 (the "**Fifth Amendment**"), the Sixth Amendment to the Disposition and Development Agreement, dated as of October 22, 2019 (the "**Sixth Amendment**"), the Seventh Amendment to the Disposition and Development Agreement, dated as of May 13, 2020 (the "**Seventh Amendment**"), that certain Eighth Amendment to the Disposition and Development Agreement, dated as of September 30, 2020 (the "**Eighth Amendment**"), the Ninth Amendment to the Disposition and Development Agreement, dated as of September 16, 2021 (the "**Ninth Amendment**"), the Tenth Amendment to the Disposition and Development Agreement, dated as of March 26, 2024 (the "**Tenth Amendment**"), and the Eleventh Amendment to the Disposition and Development Agreement, dated April 22, 2025 (the "**Eleventh Amendment**" and, together with the Original DDA, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Ninth Amendment, and the Tenth Amendment, the "**DDA**"), each by and among the Authority, the Town of Erie, Colorado (the "**Town**") and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**"), for the purpose of remediating blight in the Property (as defined in the DDA) through the development of the Property consistent with and in furtherance of the purposes of the Town and the Urban Renewal Plan.

H. In furtherance of the DDA, the Authority entered into (a) the Pledge Agreement, dated October 30, 2020, (the "**Original Pledge Agreement**"), as supplemented and amended by the First Amendment to Authority Pledge Agreement, dated as of the date hereof (the "**First Amendment to the Pledge Agreement**" and, together with the Original Authority Pledge Agreement, the "**Pledge Agreement**"), each by and between Authority and the District; and (b) the Development Agreement (Nine Mile), dated March 10, 2020 (the "**DA**"), by and among the Authority, the District, the Developer, Evergreen-287 & Arapahoe Apartments, L.L.C., and the Town.

I. By Authority Resolution No. 16-03 adopted by the Authority on March 22, 2016 (relating to the Original DDA); Authority Resolution No. 16-07 adopted by the Authority on December 13, 2016 (relating to the First Amendment); Authority Resolution No. 17-02 adopted by the Authority on May 9, 2017 (relating to the Second Amendment); Authority Resolution No. 17-05 adopted by the Authority on December 12, 2017 (relating to the Third Amendment); Authority Resolution No. 18-04 adopted by the Authority on May 8, 2018 (relating to the Fourth Amendment); Authority Resolution No. 19-08 adopted by the Authority on August 12, 2019 (relating to the Fifth Amendment); Authority Resolution No. 19-10 adopted by the Authority on October 22, 2019 (relating to the Sixth Amendment); Authority Resolution No. 20-090 adopted by the Authority on May 12, 2020 (relating to the Seventh Amendment); Authority Resolution No. 20-013 adopted by the

Authority on September 22, 2020 (relating to the Eighth Amendment); Authority Resolution 21-10 adopted by the Authority on September 14, 2021 (relating to the Ninth Amendment); Authority Resolution 24-002 adopted by the Authority on March 26, 2024 (relating to the Tenth Amendment); and Authority Resolution 25-026 adopted by the Authority on April 22, 2025 (relating to the Eleventh Amendment), the Authority approved the DDA; by Resolution No. 20-009 adopted August 25, 2020 by the Authority and by Resolution No. 25-037 adopted by the Authority on October 14, 2025, the Authority approved the Pledge Agreement; and by Resolution No. 20-05 adopted March 10, 2020 by the Authority, the Authority approved the DA.

J. The District is located within the Urban Renewal Area created pursuant to the Urban Renewal Plan, and, as a result, (a) the Pledged Property Tax Increment Revenue is remitted by the Boulder County Treasurer to the Authority in accordance with the Urban Renewal Law, the Urban Renewal Plan, and the DDA; and (b) the Pledged Sales Tax Increment Revenues are remitted by the Executive Director of the Colorado Department of Revenue (the "**Executive Director**") to the Town and then remitted by the Town to the Authority in accordance with the Urban Renewal Law, the Urban Renewal Plan, and the DDA.

K. Pursuant to the Urban Renewal Law and the Urban Renewal Plan, until the 25th anniversary of the date of the approval by the Town Council of the Town of the Urban Renewal Plan, (a) all property taxes resulting from imposition of ad valorem property taxes by certain overlapping entities consisting of the School District, the Fire District, the Town, the County, the Mile High Flood District, and the High Plains Library District (collectively, the "**Overlapping Entities**") on the assessed valuation of all taxable property of the District in the Urban Renewal Area in excess of the Base Amount (as defined in the Urban Renewal Plan) constituting Pledged Property Tax Increment Revenue are to be remitted by the Boulder County Treasurer to the Authority in accordance with the Urban Renewal Law, the Urban Renewal Plan, and the DDA and then remitted by the Authority to the District pursuant to the terms of the Pledge Agreement to secure repayment of the Loan; and (b) all municipal sales taxes collected within the boundaries of the District in the Urban Renewal Area in excess of the Base Amount (as defined in the Urban Renewal Plan) constituting Pledged Sales Tax Increment Revenues are to be remitted by the Executive Director to the Town and then by the Town to the Authority in accordance with the Urban Renewal Law, the Urban Renewal Plan, and the DDA and then further remitted by the Authority to the District pursuant to the terms of the Pledge Agreement to secure repayment of the Loan. Thereafter, (a) all property taxes resulting from imposition of ad valorem property taxes by the Overlapping Entities on the assessed valuation of all taxable property of the District in the Urban Renewal Area are to be collected by the Boulder County Treasurer and remitted to the Overlapping Entities; and (b) all municipal sales taxes collected within the boundaries of the District in the Urban Renewal Area, are to be collected by the Executive Director and remitted to the Town.

L. The District is pledging any Pledged Property Tax Increment Revenue and Pledged Sales Tax Increment Revenues received from the Authority to repayment of the Loan pursuant to and in accordance with the Pledge Agreement and the Loan Agreement.

The undersigned, as Chair of and on behalf of t Authority, in the Town of Erie, Colorado, hereby (a) agrees as to the statement of facts and law set forth in recitals A through L above and (b) certifies, represents, warrants and agrees as follows:

1. The Authority is a body corporate, validly existing as an urban renewal authority under the Urban Renewal Law and has the power and authority to execute and deliver, and to perform its obligations under, the DDA, the DA and the Pledge Agreement.

2. The execution and delivery by the Authority of the DDA, the DA, and the Pledge Agreement and the performance of its obligations thereunder have been duly authorized by all necessary legal action on the part of the Authority.

3. Each of the DDA, the DA and the Pledge Agreement has been duly executed and delivered on behalf of the Authority and constitutes the legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms.

4. The Authority's obligations under each of the DDA, the DA and the Pledge Agreement are not subject to annual appropriation by the Authority.

5. The representations and warranties of the Authority contained in the Pledge Agreement, the DA and the DDA and any other documents executed by the Authority in connection with the issuance of the Loan are true, correct, accurate and complete in all material respects as of the date of this certificate with the same effect as if made on the date hereof.

6. No portion of the amounts required to be paid by the Authority to the District to secure repayment of the Loan pursuant to each of the DDA and the Pledge Agreement is subject to any lien or encumbrance of the Authority other than to secure repayment of the Loan.

7. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, which has been served on the Authority or, to the best of my knowledge, threatened, which in any way questions the powers of the Authority to administer, exercise its rights under, and carry out the purposes of, the Urban Renewal Plan, the powers of the Authority to utilize the incremental property taxes and incremental municipal sales taxes (such as the Pledged Property Tax Increment Revenue and Pledged Sales Tax Increment Revenues), if any, generated in connection with the aforementioned Urban Renewal Plan, the powers of the Authority to execute, deliver and perform its obligations under each of the DDA, the Development Agreement and the Pledge Agreement or that in any manner questions the authority of the governing body of the Authority to approve or the proceedings approving each of the DDA, the Development Agreement and the Pledge Agreement; and no

litigation of any nature has been served on the Authority or, to the best of my knowledge, threatened, which, if determined adversely to the Authority, could materially adversely affect the transactions contemplated by each of the DDA, the Development Agreement and the Pledge Agreement or the validity or enforceability of each of the DDA, the Development Agreement and the Pledge Agreement, or would have a material adverse effect upon the Authority's ability to comply with its obligations under each of the DDA, the Development Agreement and the Pledge Agreement, or to carry out and consummate the transactions contemplated thereby, and to the best of my knowledge the Authority has complied with and is in compliance with all provisions of applicable law in all matters relating to such transactions.

8. To the best of my knowledge, the execution and delivery of each of the DDA, the DA and the Pledge Agreement and performance of the Authority's obligations thereunder do not conflict with or constitute a violation of, a breach of or default under, any statute, indenture, mortgage, note or other agreement or instrument to which the Authority is a party or by which the Authority is bound or under any existing law, rule, regulation, ordinance, judgment, order, or decree to which the Authority is subject.

9. To the best of my knowledge, none of the corporate existence of the Authority, the present boundaries of Urban Renewal Area, nor the current rights of the members of the governing body of the Authority or officers of the Authority to hold their respective positions, is being contested or challenged.

10. No consent, approval, authorization, order, filing, registration, qualification, election or referendum, of or by any person, organization, court or governmental agency or public body whatsoever not already obtained, is required in connection with the execution and delivery of each of the DDA, the DA, and the Pledge Agreement or the performance of the Authority's obligations thereunder. The undersigned certifies that she is an authorized representative of the Authority with the knowledge and authority to make the representations, certifications, and agreements contained herein.

11. The undersigned representative of the Authority acknowledges that the District has informed the Authority that: (a) the payments to be made by the Authority to the District under the DDA and the Pledge Agreement, as well as all right, title and interest of the District in the Pledge Agreement, have been assigned to the Lender pursuant to the Loan Agreement in connection with the issuance of the Loan; (b) the District and the Lender are incurring their respective obligations with respect to the Loan in reliance on the due and timely performance by the Authority of its obligations under each of the DDA, the Development Agreement and the Pledge Agreement and its agreements hereunder as well as on the truth and accuracy of its representations and warranties contained herein; (c) the Loan Agreement grants to the Lender the right to enforce the rights of the District under the Pledge Agreement, the DA and the DDA; and (d) the District and the Lender will rely on the representations, certifications and agreements contained herein.

12. The Authority hereby covenants that (a) to the extent that, as of the date hereof, the power of eminent domain is not available under the Urban Renewal Plan with respect to the Urban Renewal Area, the Authority shall not request that the Town amend the Urban Renewal Plan to add the power of eminent domain with respect to the Urban Renewal Area while the Loan or any obligations issued to refund the Loan are outstanding; and (b) to the extent the power of eminent domain is available under the Urban Renewal Plan as of the date hereof with respect to the Urban Renewal Area, the Authority shall not exercise the power of eminent domain within the Urban Renewal Area for so long as the Loan or any obligations issued to refund the Loan are outstanding or, if the Authority does so exercise any power of eminent domain which may be available under the Urban Renewal Plan as of the date hereof within the Urban Renewal Area while the Loan or any obligations issued to refund the Loan are outstanding, the Authority shall do so in conformance with the requirement to give direct notice by mail, email or personal service to any affected property owners thereby after the related blight designation has been made pursuant to the Urban Renewal Law and related case law, including *M.A.K. Investment Group, LLC v. City of Glendale*, No. 16-1492 (10th Circuit 5/14/2018).

Town of Erie Urban Renewal Authority

_____

Andrew J. Moore, Chairperson

[Signature Page to Omnibus Certificate of the Town of Erie Urban Renewal Authority]

Malcolm Fleming
Town Manager
Town of Erie
645 Holbrook St.
Erie, CO 80516

Consent

October 14, 2025

This consent is being given by the Town of Erie, a Colorado home rule municipality (the "Town"), pursuant to Section VI.H. of the Service Plan for Nine Mile Metropolitan District (the "Service Plan") approved on August 13, 2019 by the Town of Erie Board of Trustees (now Town Council) pursuant to Resolution No. 19-109.

It is the Town's understanding that Nine Mile Metropolitan District, in the Town of Erie, County of Boulder (the "District"), intends to issue its Special Revenue Refunding and Improvement Loan, Series 2025 (the "2025 Loan"), for the purposes and pursuant to the terms and conditions set forth in the Loan Agreement dated on or about October 21, 2025 by and between the District and NBH Public Finance, LLC. The 2025 Loan shall be secured by the Pledged Revenues more specifically described in the Loan Agreement and the proceeds of the 2025 Loan shall be applied as more specifically set forth in the Loan Agreement.

The Town hereby consents to the issuance of the 2025 Loan in the manner set forth in the Loan Agreement.

Sincerely,

Malcolm Fleming
Town Manager

THE TOWN OF ERIE
AND
THE TOWN OF ERIE URBAN RENEWAL AUTHORITY,
collectively, Erie

AND

EVERGREEN-287 & ARAPAHOE, L.L.C.,
the Developer

DISPOSITION AND DEVELOPMENT AGREEMENT

Dated as of March 22nd, 2016

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of March 22nd, 2016, by and between the TOWN OF ERIE, a Colorado statutory town (the "Town"), Erie of Erie Urban Renewal Authority, a Colorado urban renewal authority ("TOEURA", and together with the Town, "Erie"), and EVERGREEN-287 & ARAPAHOE, L.L.C., an Arizona limited liability company (the "Developer").

RECITALS

WHEREAS, Erie owns the Property and desires that the Property be developed in order to remediate blight as consistent with and in furtherance of the purposes of the Town and the Urban Renewal Plan;

WHEREAS, Erie desires that the Property be divided and developed in two distinct components of retail and residential (each, a "Component");

WHEREAS, Erie and the Developer agree that Erie shall not have any financial obligations related to the development of the Property; and

WHEREAS, to the extent portions of the Property are owned by TOEURA, such acquisition was made by TOEURA in furtherance of the goals of the Urban Renewal Law, C.R.S. §31-25-101 et seq., and TOEURA has found that disposition of the portion of the Property owned by it as set forth in this Agreement is in furtherance of that certain Highway 287 Urban Renewal Plan adopted by the Town on September 22, 2015, by means of Resolution 15-09, and will remedy and prevent blighted conditions within the Property; and

WHEREAS, Erie and the Developer wish to proceed with the development of the Property in accordance with the aforementioned goals and the terms hereof.

NOW, THEREFORE, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

SECTION 1. DEFINITIONS AND PURPOSE

1.1 Definitions.

"Abandonment" means, during the Term, no visible signs of construction have occurred on the Property or no building permits have been issued or extended for the Property for a period of one (1) year or longer, subject to delays of Force Majeure, dating from the last documented visible sign of construction or building permit.

"Affiliate" means any person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the Developer. For purposes of this definition, the term "control" means the power to direct or cause the direction of management and policies, through the ownership of voting rights, by contract or otherwise.

"Anchor Tenant" means a retailer in excess of 50,000 square feet in building area.

"Approvals Period" means the approvals period described in Section 4.1.

"Approvals Period Contingencies" means the contingencies described in Section 4.2.

"CDOT" means the Colorado Department of Transportation.

"CDOT Approvals" means the approvals described in Section 5.2(a).

"Certificate of Occupancy" means the certificate issued by the Town, certifying a building's compliance with applicable laws and indicating condition suitable for occupancy.

"Closing" or "Closings" means a closing or closings described in Section 5.2.

"Commencement of Construction" means the visible commencement by the Developer of actual physical operations on the Property for the erection of the Public Improvements or Private Improvements on the retail Component, including, without limitation, clearing, demolition, grading, obtaining a foundation permit for the Public Improvements or Private Improvements or commencement of excavation of the Property for the retail Component for footings, foundations or caissons.

"Commitment" means the title commitment described in Section 3.2.

"Completion of Construction" means the issuance by Erie of a Certificate of Occupancy for all of the Public Improvements that the Developer is required to construct hereunder.

"Contingencies" means (i) the Approvals Period Contingencies; and (ii) the Inspection Period Contingencies.

"Deed" means the special warranty deed in the form attached as Exhibit C.

"Default" and "Event of Default" mean those events specified in Sections 15.1 and 15.2.

"Developer" means Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company, and its successors and assigns, that conform with the requirements of SECTION 12.

"Developer's Broker" means David Hicks & Lampert.

"Developer's Financing" means the financing described in Section 7.1.

"Development Plan" means the Developer's concept for the development of the Property, which shall be allocated between retail/commercial uses and residential uses.

"Ditch Reconstruction Agreement" means the ditch reconstruction agreement described in Section 3.5(e).

"Effective Date" means the date first set forth in this Agreement.

"Environmental Laws" mean any international, federal, state or local statute, law, regulation, order, consent, decree, judgment, permit, license, code, covenant, deed restriction, common law, treaty, convention, ordinance or other requirement relating to public health, safety or the environment, including, without limitation, those relating to releases, discharges or emissions to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use and handling of polychlorinated biphenyls or asbestos, to the disposal, treatment, storage or management of hazardous or solid waste, or Hazardous Substances or crude oil, or any fraction thereof, or to exposure to toxic or hazardous materials, to the handling, transportation, discharge or release of gaseous or liquid Hazardous Substances and any regulation, order, notice or demand issued pursuant to such law, statute or ordinance, if any, applicable to the Property, including without limitation the following: the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendments and Reauthorization Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Hazardous and Solid Waste Act, the Hazardous Substances Transportation Act, the Federal Water Pollution Control Act, the Clean Water Act, the Safe Drinking Water Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Emergency Planning and Community Right-to-Know Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Rivers and Harbors Appropriation Act, the Endangered Species Act, the National Environmental Policy Act, the Oil Pollution Act, and any state or local law, and any state statute or local ordinance implementing the same, and any further amendments thereto and all rules and regulations promulgated thereunder.

"Force Majeure" delays, as used herein, means delays resulting from causes beyond the reasonable control of a Party, including, without limitation, any delay caused by any action, inaction, order, ruling, moratorium, regulation, statute, condition or other decision of any private party or governmental agency having jurisdiction over any portion of the Property, over the construction of the Improvements or over any uses thereof, or by delays caused by any action, inaction, condition or other decision by any utility company responsible for utilities, or by delays in inspections or in issuing approvals by private parties or permits by governmental agencies, or by fire, flood, inclement weather, strikes, lockouts or other labor or industrial disturbance (whether or not on the part of agents or employees of either party hereto engaged in the construction of the Improvements), civil disturbance, order of any government, court or regulatory body claiming jurisdiction or otherwise, act of public enemy, war, riot, sabotage, blockage, embargo, failure or inability to secure materials, earthquake, or other natural disaster, delays caused by any dispute resolution process, or any cause whatsoever beyond the reasonable control (excluding financial inability) of the party whose performance is required, or any of its contractors or other representatives, whether or not similar to any of the causes hereinabove stated.

"Government Approvals" means the government approvals described in Section 4.1.

"Hard Costs" mean costs and expenses actually paid by the Developer for labor, materials and equipment used for site preparation, demolition, excavating, grading, landscaping, constructing, providing tenant finish, reports, testing, inspections or otherwise constructing the Improvements; provided that any costs or expenses contributed, incurred or paid by Erie or included in the computation of Soft Costs shall not be included in Hard Costs.

"Hazardous Substance" means any hazardous or toxic material, substance or waste, pollutant or contaminant which is defined, prohibited, limited or regulated under any statute, law, ordinance, rule or regulation of any local, state, regional or Federal authority having jurisdiction over the Property, or its use, including but not limited to any material, substance or waste that is (a) defined, listed or otherwise classified as a hazardous substance, hazardous material, hazardous waste or other words of similar meaning under any Environmental Laws; (b) petroleum, petroleum hydrocarbons, and all petroleum products; (c) polychlorinated biphenyls; (d) lead; (e) urea formaldehyde; (f) asbestos and asbestos containing materials; (g) flammables and explosives; (h) infectious materials; (i) atmospheric radon at levels over 4 picocuries per cubic liter, (j) radioactive materials; or (k) defined, prohibited, limited or regulated as a hazardous substance or hazardous waste under any rules or regulations promulgated under any Environmental Laws.

"Holder" means the beneficiary under a Mortgage.

"Improvements" mean the Private Improvements or the Public Improvements.

"Inspection Period" means the inspection period described in Section 3.4.

"Inspection Period Contingencies" means the contingencies described in Section 3.5.

"Mortgage" means and includes a deed of trust, leasehold deed of trust or other instrument creating an encumbrance or lien upon the Property or any portion thereof as part of the Developer's Financing.

"Party" or "Parties" means a party or the parties to this Agreement.

"Permitted Exceptions" mean those exceptions to the title to the Property that are permitted pursuant to Section 5.4.

"Private Improvements" mean those private improvements that are necessary for the issuance of a Certificate of Occupancy for the Anchor Tenant that the Developer is required to construct or arrange for the construction of pursuant to this Agreement.

"Property" means the real property described in Exhibit A and which shall be allocated into the Retail Property and the Residential Property.

"Public Improvement" means the construction of all infrastructure and related extensions and improvements for the Property, including, without limitation, sanitary sewer and water, roads, electric, cable, phone and internet, as required pursuant to the Development Plan, at the Developer's sole expense and responsibility.

"Residential Property" means that certain portion of the Property allocated for residential use in accordance with Section 3.5.

"Residential Property Purchase Price" means that purchase price described in Section 5.1(b).

"Retail Property" means that certain portion of the Property allocated for retail and commercial use in accordance with Section 3.5.

"Retail Property Purchase Price" means that purchase price described in Section 5.1(a).

"Schedule of Performance" means Exhibit B, the schedule that governs the times for performance by the Parties.

"Soft Costs" mean reasonable fees and expenses of architects, surveyors, engineers, accountants, attorneys, construction managers and other professional consultants; real property taxes and assessments; direct salary and overhead expenses; development fees, reasonable administration and overhead charges that do not exceed what is normally charged for such services in the Denver Metropolitan Area; permit charges; costs of operating the Improvements prior to issuance of a Certificate of Occupancy; marketing costs, commissions (including both those paid to employees and those paid to third parties), allowances to tenants, and other costs of initial project lease-up; all interest, loan fees and other costs of obtaining and maintaining Developer's Financing; and other commercially recognized costs that are incurred by the Developer in connection with the acquisition, ownership, development, operation and marketing of the Property and the Improvements; provided that any costs or expenses contributed, incurred or paid by Erie or included in the computation of Hard Costs shall not be included in Soft Costs.

"Standstill Agreement" means the Standstill Agreement described in Section 13.1.

"Surface Use Agreement" means the surface use agreement described in Section 3.5(f).

"Survey" means the survey described in Section 3.3.

"Tax Increment Proposal" means the proposal described in Section 5.2(c).

"Title Company" means First American Title Insurance Company unless otherwise agreed in writing by the Parties.

"Title Policy" means the owner's title policy described in Section 3.2.

"TOEURA" means the Town of Erie Urban Renewal Authority.

"Town" means the Town of Erie, Colorado.

"Town Approvals" means the approvals described in Section 5.2(a).

"Town Board" means the Board of Trustees of the Town of Erie, Colorado.

"Urban Renewal Plan" means the Highway 287 Urban Renewal Plan dated September 10, 2015, adopted by TOEURA.

"Zoning Ordinance" means the Town zoning ordinance described in Section 6.1.

1.2 Purpose. The purpose of this Agreement is to remediate blight as consistent with and in furtherance of the purposes of the Town and the Urban Renewal Plan.

SECTION 2. DESCRIPTION OF DEVELOPMENT AND IMPROVEMENTS

The Developer agrees to acquire and develop the Property described in Exhibit A in accordance with this Agreement and the Development Plan by constructing the Improvements as described herein. All construction required of the Parties by this Agreement shall be undertaken and completed in accordance with the Schedule of Performance (Exhibit B), the Development Plan and all applicable laws and regulations, including Town codes and ordinances, and shall be performed in accordance with and subject to the terms and conditions of this Agreement.

SECTION 3. INSPECTION PERIOD

3.1 Due Diligence Materials. Within thirty (30) days after the Effective Date, Erie shall provide to the Developer copies of any plans, specifications, drawings, surveys, reports, appraisals, environmental reports and assessments, including, without limitation, Phase I and Phase II Environmental Site Assessments, Asbestos and Lead Based Paint Surveys, if any, or other information for the Property in Erie's possession ("Property Information").

3.2 Title. After the Effective Date, the Developer shall obtain a title insurance commitment, together with legible copies of all instruments referred to in such commitment as conditions or exceptions (collectively, the "Commitment"), for 2006 ALTA form issued by Title Company for an owner's title insurance policy on the Title Company's standard form (the "Title Policy") for the Property. The costs of the Title Policy shall be determined in accordance with Sections 5.4.

3.3 Survey. Developer, at Developer's expense, shall obtain an ALTA boundary survey prepared by a certified Colorado surveyor showing all Property lines, improvements, if any, encroachments, setback lines, easements, adjoining roadways, proposed roads and/or proposed existing road extensions, and utility installments located therein and all other matters which are revealed by the Commitment (the "Survey").

3.4 Inspection Period. Developer shall have one hundred eighty (180) days from the Effective Date (the "Inspection Period") to conduct due diligence and approve, at Developer's sole and absolute discretion, the Property, the Property Information, the Commitment, the Survey and the environmental condition of the Property. During the Inspection Period, at its expense, the Developer may make any tests, surveys, inspections or obtain any audits, tests or studies of soils and subsurface conditions, including environmental tests on or about the Property to determine its suitability for construction of the Improvements and to determine if Hazardous Substances exist or have been stored on the Property. If this Agreement is terminated pursuant to an express right to terminate hereunder, the Developer shall deliver copies (without representation or warranty of any kind) of all of such non-proprietary audits, tests, studies or reports to Erie. Erie shall permit the Developer and its representatives access to the Property at reasonable times for the purpose of conducting such tests, inspections and surveys. No charge shall be made for the access provided in this Section. A party entering upon the Property pursuant to this section shall reasonably restore the Property to the same condition, with the exception of any monitoring wells constructed during the Inspection Period, prior to any such entry as is commercially reasonable possible, ordinary wear and tear excepted. If the results of any of the matters referred to in this Section appear unsatisfactory to the Developer for any reason, then the Developer, at

Developer's sole and absolute discretion, shall have the right to terminate this Agreement by giving written notice to that effect to Erie on or before the expiration of the Inspection Period.

3.5 Inspection Period Contingencies. In addition to the conditions set forth in Section 3.4, prior to the expiration of the Inspection Period, or earlier if specifically set forth below, each Party, as applicable, shall satisfy the following contingencies (collectively, the "Inspection Period Contingencies"):

(a) Master Plan. The Parties shall agree on a master plan for and the respective sizes and configurations of the Retail Property and the Residential Property (the "Master Plan"). The Parties covenant and agree to use reasonable, good faith efforts to agree upon the Master Plan, the Retail Property and the Residential Property as early as possible during the Inspection Period in order to assist the Developer in the timely satisfaction of the Contingencies, while acknowledging, however, that the responsibility for proposing the desired configuration lies with the Developer, and that Erie cannot approve, deny or comment until such proposal has been delivered to it by Developer.

(b) Anchor Tenant. The Developer shall secure a commitment for an Anchor Tenant for the Retail Property as evidenced by an executed letter of intent with the Anchor Tenant and shall provide such executed letter of intent to the Town Administrator and the Town's outside legal counsel prior to the expiration of the Inspection Period as confidential and proprietary work product under C.R.S § 24-72-201. If the Town Administrator and the Town's outside legal counsel have any objections to the Anchor Tenant, the Town Administrator shall notify the Developer of such objections in writing within thirty (30) days after receipt thereof, and the Parties shall have until the expiration of said thirty (30) days period to resolve such objections. The Parties covenant and agree to use reasonable, good faith efforts to agree upon an Anchor Tenant as early as possible during the Inspection Period in order to assist the Developer in the timely satisfaction of the Contingencies. For the avoidance of doubt, no agreement between the Developer and a proposed Anchor Tenant shall be binding without the written approval of the Town Administrator. Notwithstanding the foregoing, the Town shall not have any approval rights over any non-Anchor Tenants; provided, however, that the Developer shall take into consideration any input from the Town with respect to leasing or sales to any non-Anchor Tenant.

(c) Financing. The Developer shall provide to the Town Administrator and the Town's outside legal counsel evidence of Developer Financing as further set forth in SECTION 7 as confidential and proprietary work product under C.R.S § 24-72-201. If the Town Administrator and the Town's outside legal counsel have any objections to the Developer's Financing, the Town Administrator shall notify the Developer of such objections in writing within thirty (30) days after receipt thereof, and the Parties shall have until expiration of the Inspection Period to resolve such objections. The Parties covenant and agree to use reasonable, good faith efforts to agree upon Developer's Financing as early as possible during the Inspection Period in order to assist the Developer in the timely satisfaction of the Contingencies.

(d) Tree Removal. On or before April 15, 2016, Erie, at its sole cost and expense, shall remove all trees on the Property protected under the Migratory Bird Treaty Act.

(e) Ditch Reconstruction Agreement. Erie, in coordination with the Developer, shall negotiate in good faith and execute a Ditch Reconstruction Agreement with the South Boulder Canyon Ditch Company for the relocation and piping of the ditch facilities within the Property to facilitate the development of the Property. Erie will deliver copies of the Ditch Reconstruction Agreement to the Developer and the Developer, within ten (10) days after receipt of any such Ditch Reconstruction Agreement shall either approve the Ditch Reconstruction Agreement or disapprove the same and advise Erie in writing of the specific changes required by the Developer to the Ditch Reconstruction Agreement ("Disapproval Notice"). If the Developer fails to timely deliver a Disapproval Notice within such ten (10) day period, then the Developer shall be deemed to have approved the Ditch Reconstruction Agreement.

(f) Surface Use Agreement. Erie, at its sole cost and expense, in coordination with the Developer, shall execute a Surface Use Agreement with Kerr-McGee Oil & Gas Onshore LP, to eliminate any surface use of the Property for mineral extraction. Erie will deliver copies of the Surface Use Agreement to the Developer and the Developer, within ten (10) days after receipt of any such Surface Use Agreement shall either approve the Surface Use Agreement or disapprove the same and advise Erie in writing of the specific changes required by the Developer to the Surface Use Agreement. If the Developer fails to timely deliver a Disapproval Notice within such ten (10) day period, then the Developer shall be deemed to have approved the Surface Use Agreement.

(g) Retail Marketing. The Developer, as assisted by Developer's Broker, covenants and agrees to use good faith efforts to market the Property to attract quality retail and commercial tenants for the Retail Property, which marketing shall include, Developer's standard marketing efforts and soliciting the Retail Property at the International Council of Shopping Centers' Rocky Mountain Idea Exchange and RECon conventions.

Prior to expiration of the Inspection Period, the Developer shall deliver written notice to Erie indicating that each of the Inspection Period Contingencies has been waived or satisfied. In the event that the Developer notifies Erie that it is unable to proceed with this transaction due to a valid failure of any of the Inspection Period Contingencies, this Agreement shall terminate, and the Parties hereto shall be relieved of all further obligations and liability hereunder (other than those that are expressly stated to survive the termination of this Agreement). In the event Developer fails to provide a notice as required herein in this Section, Erie shall provide Developer with a written reminder notice and, if Developer fails to provide a notice as required herein within five (5) days, then this Agreement shall terminate, and the Parties hereto shall be relieved of all further obligations and liability hereunder (other than those that are expressly stated to survive the termination of this Agreement).

SECTION 4. APPROVALS PERIOD

4.1 Approvals Period. The Developer shall have two hundred seventy (270) days from the expiration of the Inspection Period (the "Approvals Period") to obtain all necessary approvals from Erie and CDOT, except as specifically set forth in Section 5.2, with conditions reasonably acceptable to the Developer, necessary to permit the use of the Property by Developer's tenants ("Government Approvals"). In the event that the Government Approvals

have not been obtained during such 270-day period, the Approvals Period shall automatically extend for an additional sixty (60) days.

4.2 Approvals Period Contingencies. In addition to the conditions set forth in Section 4.1, prior to the expiration of the Approvals Period, or sooner if specifically set forth below, each Party, as applicable, shall satisfy the following contingencies (collectively, the "Approval Period Contingencies"):

(a) Anchor Tenant. Subject to the Town's approval of an Anchor Tenant pursuant to Section 3.5(b)), the Developer shall secure a binding commitment with the Anchor Tenant, which such binding commitment shall include a commercially reasonable construction schedule indicating when the Anchor Tenant will open for business, and shall provide reasonable evidence thereof to the Town Administrator and the Town's outside legal counsel as confidential and proprietary work product under C.R.S § 24-72-201.

(b) Entitlements. The Developer shall create and process all site plans, subdivision plats and construction/building permits with the Town; provided, that the Town, without waiving any of its legislative, regulatory and decision-making authority agrees and covenants to reasonably cooperate in good faith with the Developer in such a manner as to not circumvent the terms of this Agreement.

(c) Retail Marketing. The Developer, as assisted by Developer's Broker, covenants and agrees to use good faith efforts to market the Property to attract quality retail and commercial tenants for the Retail Property, which marketing shall include, Developer's standard marketing efforts and soliciting the Retail Property at the International Council of Shopping Centers' Rocky Mountain Idea Exchange and RECon conventions.

Prior to expiration of the Approvals Period, the Developer shall deliver written notice to Erie indicating that each of the Approvals Period Contingencies has been waived or satisfied. In the event that Developer notifies Erie that it is unable to proceed with this transaction due to a valid failure of any of the Approvals Period Contingencies, this Agreement shall terminate, and the Parties hereto shall be relieved of all further obligations and liability hereunder (other than those that are expressly stated to survive the termination of this Agreement). In the event Developer fails to provide a notice as required herein in this Section, Erie shall provide Developer with a written reminder notice and, if Developer fails to provide a notice as required herein within five (5) days, then this Agreement shall terminate, and the Parties hereto shall be relieved of all further obligations and liability hereunder (other than those that are expressly stated to survive the termination of this Agreement).

SECTION 5. CLOSING

5.1 Purchase Price. Upon completion of the Survey, the purchase price for the Property shall be as follows:

(a) Retail Property Purchase Price. The Retail Property Purchase Price shall be $3.00 per square foot, net of all public right-of-way dedications and park/open space dedications and buffers, of the Retail Property, as determined by the Parties in accordance with Section 3.5(a) and shown on the Survey.

(b) Residential Property Purchase Price. The Residential Property Purchase Price shall be $2.00 per square foot, net of all public right-of-way dedications and park/open space dedications and buffers, of the Residential Property, as determined by the Parties in accordance with Section 3.5(a) and shown on the Survey.

The current estimated total purchase price for the Property is approximately $5,000,000.00; provided however, that the final purchase price will be subject to the adjustments set forth in this Section 5.1.

5.2 Closing Conditions. The Parties' obligation to close under this Agreement shall be subject to and conditioned upon the fulfillment of each and all of the following conditions precedent:

(a) Town Approvals. Within thirty (30) days of agreeing upon the Master Plan, the Developer shall submit to the Town an application to amend the Town Comprehensive Plan and the zoning for the Property to allow for the development of the Property in accordance with the Development Plan (the "Town Approvals"). The Town, pursuant to its legislative and regulatory authority, and its normal and customary practice and as required by applicable law, covenants to process in good faith and shall approve or deny the proposed amendments prior to Closing. In the event the Town denies or fails to approve the Town Approvals prior to Closing, the Developer may terminate this Agreement in accordance with SECTION 14.

(b) CDOT Approvals. As soon as reasonably practicable after the Effective Date, the Town, in coordination with the Developer, shall submit to CDOT, and diligently pursue thereafter, an application for an Access Control permit, providing either (i) a full turning movement traffic signal, or (ii) a three-quarters access, off State Highway 287 for the benefit of the Property ("CDOT Approvals"). In the event CDOT denies or fails to approve the CDOT Approvals, or if Developer determines in good faith that the Town will be unable to obtain the CDOT Approvals, then at any time prior to Closing, the Developer may terminate this Agreement in accordance with SECTION 14.

(c) TOEURA Approvals. Within one hundred eighty (180) days of the Effective Date, the Developer shall submit to TOEURA a proposal for the reimbursement of actual reimbursable project costs from tax increment financing and from a percent of incremental sales taxes as allowed by TOEURA that are generated by the development of the Property (the "Tax Increment Proposal"). The Tax Increment Proposal shall include any required feasibility studies, forecasts and projections, which shall be provided by and at the sole expense of the Developer and must be acceptable to Erie in its reasonable discretion, and shall specifically include an analysis of the likelihood and timing of any development activity anticipated to support the generation of the tax increment financing. TOEURA shall consider the Tax Increment Proposal, and the Parties shall have until Closing to agree upon, and for the TOEURA Board to approve, an agreement memorializing the terms of the Tax Increment Proposal. If the Parties are unable to agree upon the form and substance of the Tax Increment Proposal on or before Closing, then the Developer may terminate this Agreement in accordance with SECTION 14. The Parties covenant and agree to use reasonable, good faith efforts to agree upon the final form of the Tax Increment Proposal during the Inspection and Approvals Periods.

5.3 Conveyance; Closing.

(a) Retail Property. Within thirty (30) days of notice from the Developer or the later of (i) each Party completing all Inspection Period Contingencies and all Approvals Period Contingencies applicable to the Retail Property, and (ii) expiration of the Approvals Period, the Retail Property or portion thereof shall be conveyed to the Developer by the Deed in consideration for the Retail Property Purchase Price, or allocable portion thereof in furtherance of Section 5.3(c) below.

(b) Residential Property. Within thirty (30) days of notice from the Developer or the later of (i) each Party completing all Inspection Period Contingencies and all Approvals Period Contingencies applicable to the Residential Property, and (ii) expiration of the Approvals Period, the Residential Property shall be conveyed to the Developer by the Deed in consideration for the Residential Property Purchase Price.

(c) Separate Closings; Partial Closings. Based upon the timing of the satisfaction of the Contingencies and/or the timing of the Development Plan, the Retail Property, or portions thereof, and the Residential Property may be conveyed to the Developer simultaneously or separately, it being the intent of the Parties, for instance, to allow for the closing of the portion of the Retail Property for the Anchor Tenant separate from outparcels or pads of the Retail Property. At the time of the closing of the conveyance of each of the Retail Property, or portions thereof, and the Residential Property (each, a "Closing" and collectively the "Closings"), and subject to the terms, covenants and conditions of this Agreement, Erie shall convey to the Developer title by a Deed to each of the Retail Property, or portions thereof, and the Residential Property. The Closings shall take place at the office of the Title Company, unless the Parties agree otherwise in writing. If and to the extent Developer desires to phase the Closing of the Retail Property as herein provided, Developer shall provide notice to the Town of the applicable parcel of the Retail Property subject to an applicable Closing. Notwithstanding anything contained in this Agreement to the contrary, in order to accommodate the separate or partial closings as contemplated above and, if and to the extent necessary to satisfy Developer's obligations set forth in Section 9 and/or the construction scheduling necessary for the Anchor Tenant, Erie hereby agrees to grant to Developer reasonable license agreements to enter the Retail Property, or portions thereof, and the Residential Property, for purposes of site work construction and other Improvements. The parties hereby agree to negotiate such license agreements in good faith.

5.4 Condition of Title. Any Title Policy issued by the Title Company insuring title to the Property shall not include the standard preprinted exceptions and Erie agrees to provide the Title Company, at its cost, with all documents requested by Title Company necessary to remove the standard preprinted exceptions; provided, however, Erie shall not be responsible for any additional costs associated with the deletion of such exceptions or an updated survey. For the avoidance of doubt, Erie shall pay the costs of ALTA standard coverage title insurance, and the Developer shall pay the costs of extended coverage and endorsements, if any. Title to the Property shall be free and clear of all liens, defects and encumbrances, except the following Permitted Exceptions: (a) this Agreement, including those terms included in the Deed or any other document of record; (b) those matters, including easements and rights of way that are part of the Development Plan, or are approved, accepted, or waived by the Developer; (c) easements

for utilities that will continue in use under, and do not unreasonably interfere with, the Development Plan; (d) taxes and assessments not yet due and payable; and (e) the Ditch Reconstruction Agreement and the Surface Use Agreement.

5.5 Title Insurance Policies. Promptly after recordation of the Deed(s), and upon satisfaction of each requirement set forth in the Commitment, the Title Company shall issue the Title Policy in accordance with the Commitment described in Section 3.2 and the provisions of Section 5.4. In no event shall Erie be responsible for a failure by the Title Company to issue the Title Policy, unless such failure is the direct result of a failure by Erie to convey title in accordance with the terms hereof and/or satisfy the terms and conditions of this Agreement. The Developer shall be responsible for all costs of the Title Policy, except as provided in Section 5.4 above, and any title insurance commitments, policies or endorsements required by the Developer or its mortgagees.

5.6 Form of Deed; Recording. At the Closings, the conveyance of each of the applicable parcels and the remaining Property will be accomplished by Deed(s). The Deed(s) shall be subject to the Permitted Exceptions described in Section 5.4. Such Deed(s) shall be subject to all the terms, conditions and requirements of this Agreement and title to the Property shall be in the condition required by Section 5.4. After execution of the Deed(s), the Title Company shall promptly record the Deed(s) with the Clerk and Recorder for Boulder County, Colorado. The Developer shall pay all recording costs, including the state documentary fee, if any.

5.7 Closing Extensions. Notwithstanding anything contained herein to the contrary, Developer may, at its option, extend the Closings for the Retail Property, or portions thereof, for two (2) periods of up to one hundred eighty (180) days each; provided, that such extensions are necessary to accommodate the construction schedule of an Anchor Tenant. To elect to exercise an applicable extension, Developer shall deliver written notice to the Town and evidence of such Anchor Tenant's construction schedule no less than thirty (30) days prior to the then-scheduled Closing.

SECTION 6. PREPARATION OF PROPERTY FOR DEVELOPMENT

6.1 Zoning. The Property is zoned Planned Development and Community Commercial pursuant to Chapter 2 of the Town Unified Development Code (the "Zoning Ordinance") and limited by the use restrictions set forth in Chapter 3 of the Zoning Ordinance. Except as set forth in Section 5.2(a), the Parties covenant that they will not seek any zoning changes that interfere with accomplishment of the Development Plan or otherwise preclude compliance with this Agreement without consent of Erie.

6.2 "As Is" Nature of Transaction. Except as specifically provided herein and in the Deed(s), Erie has not made, does not make and specifically negates and disclaims any representations, warranties, covenants or guarantees of any kind, whether express or implied, (a) concerning or with respect to the presence of Hazardous Substances on the Property or compliance of the Property with any and all applicable Environmental Laws and (b) the value, nature, quality or condition of the water, soil and geology of the Property. The Developer acknowledges and agrees that to the maximum extent permitted by law, except as set forth herein

and/or in the Deed(s), the sale of the Property, as provided for herein, is made on an "As Is" condition and basis. The Developer and anyone claiming by, through or under the Developer hereby fully and irrevocably releases Erie and its successors from any and all claims that it may now have or hereafter acquire against Erie, its commissioners, employees, representatives and agents for any cost, loss, liability, damage, expense, claim, demand, action or cause of action arising from or related to any such defects and conditions, including, without limitation, compliance with Environmental Laws, affecting the Property or any portion thereof, except claims arising out of breaches of the representations and warranties contained herein.

6.3 Access to Property. Prior to issuance of a final Certificate of Occupancy for the Anchor Tenant, the Developer shall permit representatives of Erie access to the Property at reasonable times for the purpose of carrying out or determining compliance with this Agreement or any Town code or ordinance, including, without limitation, inspection of any work being conducted on the Property; provided, that any such inspection will not unreasonably interfere with Developer's construction work or any tenant's use of the Improvements. No compensation shall be payable to the Parties, nor shall any charge be made in any form by any Party for the access provided in this Section. A party, including Erie, entering upon the Property pursuant to this section shall reasonably restore the Property to its condition prior to such entry, and shall indemnify, defend and hold harmless the Developer for any loss or damage or claim for loss or damage (including reasonable legal fees) resulting from any such entrance, tests and surveys.

6.4 Dedications; Developer Not to Construct Over Utility Easements. The Developer shall dedicate, as appropriate, all easements, public streets, alleys and rights of way required by the Development Plan and applicable Town requirements. The Developer shall not construct any building or other permanent structure other than planters, landscaped areas, access drives, surface parking, loading areas and public plazas, on, over (except for roof or canopy overhangs approved by Erie) or within the boundary lines of any easement for public utilities unless such construction is provided for in such easement, is not inconsistent with the purposes of such easement or has been approved by Erie.

SECTION 7. DEVELOPMENT FINANCING

7.1 Developer's Financing. Prior to expiration of the Inspection Period, the Developer shall submit to Erie evidence reasonably satisfactory to the Town Administrator with the advice and counsel of the Town Attorney and the Town's Director of Finance that the Developer has the ability to obtain necessary Developer's Financing for the Development Plan. Such evidence shall be sufficiently complete to enable Erie to reasonably verify that the Developer has the legal and financial ability to construct, complete and open the Improvements. The Parties covenant and agree to use reasonable, good faith efforts to agree upon the final form of the Tax Increment Proposal during the Inspection and Approvals Periods. The Parties agree that Erie shall, to the extent of its legal ability to do so and in compliance with the Colorado Open Records Act, C.R.S. 24-72-201 et seq. ("CORA"), protect financial or other confidential and proprietary business documents furnished under this Section 7.1. This Section 7.1 shall protect from inspection by, or disclosure or distribution to, any third party. Erie shall send to the Developer a copy of any such request for disclosure of such information within one (1) business day of Erie's receipt.

7.2 Cooperation Regarding Financing. The Parties will cooperate and provide such reasonable assistance and information (including representations from the members and investors of the Developer regarding compliance with the Office of Foreign Assets Control and anti-money laundering laws, regulations and policies) as may be required in connection with the Developer's Financing. Each Party agrees to give favorable consideration to reasonable changes in this Agreement or in related documents that may be requested by prospective lenders, Erie or others providing financial assistance hereunder, provided that the rights of such Party are not adversely affected by such changes.

SECTION 8. PLAN SUBMITTAL AND REVIEW PROCEDURE

The Developer shall work closely with Town staff to establish and comply with design guidelines that guarantee consistency and thematic elements throughout the Development Plan, and shall obtain all approvals required by the Code to enable construction of the Project. No further approval of the Development Plan by Erie shall be required pursuant to this Agreement, except with respect to any material change in the Development Plan (or any component thereof), and the normal and customary entitlements, site plan approvals and building permits required of any proposed project within Erie. If the Developer desires to make any material change to the Development Plan, the Developer shall submit the proposed change to Erie for its approval, with an explanation of the justification for the proposed change. Erie shall endeavor to provide an approval or rejection of the proposed changes within thirty (30) days of such submittal and approval shall not be unreasonably withheld or delayed. All work with respect to the construction of the Improvements shall conform with the approved Development Plan and all applicable laws, codes and ordinances.

SECTION 9. DEVELOPER'S CONSTRUCTION OBLIGATIONS

9.1 Developer Obligations. Subject to Force Majeure, in accordance with and subject to this Agreement, the Developer shall commence, diligently pursue and complete the construction of the Improvements within the time periods specified in the Schedule of Performance. The Developer shall, at its sole cost and expense, obtain all necessary entitlements and approvals, including, without limitation, zoning, subdivision, site plan, building permits and utility, to construct, complete and open the Improvements. The covenants regarding such construction and completion shall run with the land until Completion of Construction and are binding for the benefit of Erie and enforceable by Erie against the Developer and its successors and assigns. Erie and the Developer acknowledge and agree that a summary of all fees and assessments assessed, imposed and/or collected by the Town concerning the development of the Retail Property that are in effect as of the Effective Date, including, without limitation, fees for taps and permits, impact fees and other development fees, is attached hereto as Exhibit E ("Controlled Fee Schedule"). Notwithstanding anything contained in this Agreement to the contrary, with respect to the Retail Property, Developer shall not be obligated for any fees other than as set forth on the Controlled Fee Schedule and/or any increases in any such fees beyond that enumerated on the Controlled Fee Schedule.

(a) Pre-Construction. Subject to Force Majeure, in accordance with the Schedule of Performance, the Developer shall complete all steps necessary to undertake Commencement of Construction and Completion of Construction, including, without limitation,

planning, design and engineering for the Property and the Improvements. The Developer shall cooperate with Town staff to establish and comply with design guidelines that guarantee consistency and thematic elements throughout the Development Plan, and the Developer shall not have the right to materially alter the Development Plan without the consent of Erie, which may be withheld in its reasonable discretion.

(b) Retail Property. Subject to Force Majeure, in accordance with the Schedule of Performance, the Developer shall perform, or cause to be performed, Commencement of Construction and Completion of Construction of the Improvements required for the Retail Property.

(c) Residential Property. Subject to Force Majeure, in accordance with the Schedule of Performance, the Developer shall perform, or cause to be performed, Commencement of Construction and Completion of Construction of the Improvements required for the Residential Property.

9.2 Progress Reports. Until Completion of Construction, the Developer shall make quarterly reports in such commercially reasonable detail as may reasonably be requested by Erie, as to actual progress of the Developer with respect to the Commencement of Construction, the progress of construction and the Completion of Construction for the Property.

SECTION 10. SAFETY; INDEMNIFICATION; INSURANCE

10.1 Protection of Persons and Property. At all times while this Agreement is in effect, the Developer shall take reasonable precautions to prevent damage, injury or loss (to persons and property as a direct result of Developer's design, inspection and construction activities on the Property). The Developer shall comply with all applicable safety laws, regulations and building codes, and shall post appropriate signs and other warnings notifying employees and members of the public of all construction hazards. The Developer shall promptly remedy physical damage to the Property caused in whole or in part by the Developer, its contractors and subcontractors or anyone employed directly or indirectly by any of them, except for damage or loss attributable to acts or omissions of Erie or their contractors or subcontractors or anyone directly or indirectly employed by Erie or their contractors or subcontractors.

10.2 Indemnification; Insurance. Except for pre-existing conditions and/or the mere discovery of exiting conditions, the Developer shall defend, indemnify, and hold Erie, its commissioners, officers and employees, harmless from, all claims or suits for, and damages to, property and injuries to persons, including accidental death (including attorneys' fees and costs), which may be caused by any of the Developer's design, inspection and construction activities under this Agreement, whether such activities or performance thereof be by the Developer or anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after termination of this Agreement, except for damage or loss attributable to acts or omissions of Erie or its contractors or subcontractors or anyone directly or indirectly employed by Erie or its contractors or subcontractors. At all times while the Developer is engaged in preliminary work on the Property or adjacent streets and during the period from the Commencement of Construction until Completion of Construction,

the Developer shall carry and, upon request, will provide Erie with valid certificates of insurance as follows:

(a) Builder's risk insurance (with a deductible reasonably acceptable to Erie) in an amount equal to 100% of the replacement cost of the Improvements at the date of Completion of Construction;

(b) comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance), automobile and umbrella liability insurance with a combined single limit for both bodily injury and property damage reasonably acceptable to Erie, but in no event in excess of $2,000,000.00;

(c) worker's compensation insurance, with statutory coverage, including the amount of deductible permitted by applicable law.

The policies of insurance required under subparagraphs a through c above shall be reasonably satisfactory to Erie, placed with financially sound and reputable insurers, require the insurer to endeavor to give at least thirty (30) days advance written notice to Erie in the event of cancellation or change in coverage and shall name Erie as an additional insured.

In the event any portion of the Property is developed by any party other than the Developer (in each case, the "Replacement Developer"), the Developer shall remain liable for the obligations of this Section 10.2; provided, however, that the Developer may be released from the obligations of this Section 10.2, if the Replacement Developer carries, and provides to Erie valid certificates of insurance for, all insurance policies as required by this Section 10.2 and executes a substitute indemnification agreement, subject to Erie's reasonable approval.

10.3 Repair or Reconstruction. **[Intentionally Deleted]**.

SECTION 11. REPRESENTATIONS AND WARRANTIES

11.1 Representations and Warranties by the Town. The Town represents and warrants as follows:

(a) The Town is a statutory town duly organized and existing under applicable law and has the right, power, legal capacity and the authority to enter into this Agreement and has authorized the execution, delivery and performance of this Agreement by proper action of its Board of Trustees.

(b) The Town knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of Erie or its officials with respect to the Property, this Agreement or the Improvements that has not been disclosed to the Developer.

(c) The filing or service of any such suit affecting the Property prior to the delivery of a Certificate of Occupancy shall be disclosed immediately to the Developer by the Town. To the fullest extent of the law, the Town shall indemnify, defend and hold the Developer and its officers, partners, directors, shareholders, managers, members and successors and assigns

harmless from and against all claims, appeals and/or lawsuits challenging and/or concerning the validity and enforcement of this Agreement and/or the Tax Increment Proposal. In addition, the Town covenants and agrees, at its sole cost and expense, to defend the validity and enforcement of this Agreement and/or the Tax Increment Proposal. Without limiting the generality of the foregoing, the Developer shall be responsible for its own costs and expenses, including, without limitation, Developer's attorneys' fees, in the event the Developer elects to engage its own legal representation with respect to any claims, appeals and/or lawsuits challenging and/or concerning the validity and enforcement of this Agreement and/or the Tax Increment Proposal.

(d) To the best of the Town's actual knowledge, the Town knows of no leases, options, rights of first refusal or other encumbrances affecting title to or use of the Property except as set forth in the Commitment.

(e) To the best of the Town's actual knowledge, the Town knows of no Hazardous Substances, including underground storage tanks, which have been released or discharged on the Property or adjacent property that caused contamination of the soil and/or ground water on or under the Property that has not been disclosed to Developer.

11.2 Representations and Warranties by TOEURA. TOEURA represents and warrants as follows:

(a) TOEURA is an urban renewal authority, a body corporate and politic duly organized and existing under applicable law and has the right, power, legal capacity and the authority to enter into this Agreement and has authorized the execution, delivery and performance of this Agreement by proper action of its Board of Trustees.

(b) TOEURA knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of TOEURA or its officials with respect to the Property, this Agreement or the Improvements that has not been disclosed to the Developer.

(c) The filing or service of any such suit affecting the Property prior to the delivery of a Certificate of Occupancy shall be disclosed immediately to the Developer by TOEURA. To the fullest extent of the law, TOEURA shall indemnify, defend and hold the Developer and its officers, partners, directors, shareholders, managers, members and successors and assigns harmless from and against all claims, appeals and/or lawsuits challenging and/or concerning the validity and enforcement of this Agreement and/or the Tax Increment Proposal. In addition, TOEURA covenants and agrees, at its sole cost and expense, to defend the validity and enforcement of this Agreement and/or the Tax Increment Proposal. Without limiting the generality of the foregoing, the Developer shall be responsible for its own costs and expenses, including, without limitation, Developer's attorneys' fees, in the event the Developer elects to engage its own legal representation with respect to any claims, appeals and/or lawsuits challenging and/or concerning the validity and enforcement of this Agreement and/or the Tax Increment Proposal.

(d) To the best of TOEURA's actual knowledge, TOEURA knows of no leases, options, rights of first refusal or other encumbrances affecting title to or use of the Property except as set forth in the Commitment.

(e) To the best of TOEURA's actual knowledge, TOEURA knows of no Hazardous Substances, including underground storage tanks, which have been released or discharged on the Property or adjacent property that caused contamination of the soil and/or ground water on or under the Property that has not been disclosed to Developer.

11.3 Representations and Warranties by the Developer. The Developer represents and warrants as follows:

(a) The Developer is a limited liability company duly organized, validly existing and is in good standing under the laws of the State of California. The Developer has the right, power, legal capacity and authority and has duly authorized the execution, delivery and performance of this Agreement by proper action of its board.

(b) The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not (i) violate any law, rule, order or regulation applicable to the Developer or to the Developer's governing documents; (ii) result in the breach or default under any agreement or other instrument to which the Developer is a party or by which it may be bound or affected; or (iii) permit any party to terminate any such agreement or instrument or to accelerate the maturity of any indebtedness or other obligation of the Developer.

(c) To Developer's actual knowledge, the Developer knows of no action, suit, proceeding or investigation that is threatened or pending against the Developer or its principals that has not been disclosed to Erie that materially impairs the ability of the Developer to perform its obligations under this Agreement. The filing or service of any such suit affecting the Property prior to the delivery of a Certificate of Occupancy shall be disclosed immediately to Erie by the Developer.

(d) Subject to obtaining the Developer's Financing, the Developer has the necessary financial and legal ability to construct the Improvements, perform its obligations under this Agreement and the other agreements incidental to such performance as contemplated by this Agreement.

SECTION 12. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

12.1 Prohibition Against Assignment of Agreement. The Developer agrees that it shall not make, create, or suffer to be made or created, any total or partial sale or transfer in any form of this Agreement or any part thereof or any interest therein, or any agreement to do the same, without the prior written approval of Erie. However, the following types of conveyances do not require Erie's consent:

(a) a Mortgage, collateral assignment or other encumbrance of the Developer's rights under this Agreement, including, without limitation, its right to receive any payment or reimbursement, to any Holder or other party that provides acquisition, construction, working capital, tenant improvement or other financing to the Developer in connection with the development of the Property; provided, that the Developer provide Erie with written notice of the name and address of such Holder or other party;

(b) the leasing or rental to tenants or sale of portions of the Retail Property to retail users or the Anchor Tenant;

(c) sales of portions of Residential Property to builders and/or residential developers;

(d) the establishment of easements to effectuate the Development Plan;

(e) the creation of an association and/or other covenants, conditions and restrictions and recordation of documents in furtherance thereof;

(f) assignment of its rights to an Affiliate or an entity established by Developer for the closing, construction or financing of the Improvements; or

(g) agreements to sell, lease or transfer all or part of the Property or the Private Improvements (except for leasing or rental or rental to tenants of the Private Improvements) after completion of the Improvements.

12.2 Information as to Interest Holders. Exhibit D contains information regarding the Developer, its members and the Developer's consultants and advisors. During the period between execution of this Agreement and the issuance of a final Certificate of Occupancy for construction of all of the Improvements, the Developer will promptly notify Erie of any material changes in the ownership of interests, legal or beneficial, in the Developer or of any material change in the direct or indirect control of such interests and in all changes and additions to Exhibit D, which changes shall be subject to Erie's prior written approval, to the extent required pursuant to Section 12.1 hereof.

SECTION 13. MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

13.1 Limitation Upon Encumbrance of Property. Prior to Closing, the Developer shall not mortgage or encumber any part of the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to any part of the Property, except for (a) a Mortgage limited to the Developer's interest in this Agreement and obtained as part of Developer's Financing to the extent necessary for development and construction of the Property (including Hard Costs and Soft Costs), in which event the Holder of the Mortgage shall have entered into a standstill or intercreditor agreement with Erie (a "Standstill Agreement") which Borrower agrees will permit each of Erie and the Holder to send any notices of Developer's default to each other or (b) those encumbrances permitted in Section 12.1 above. Additionally, prior to issuance of a Certificate of Occupancy for the Anchor Tenant, the Developer shall, upon its knowledge thereof, promptly notify Erie of any encumbrance or lien that has been created on or attached to the Property (or any part thereof) or the Improvements (or any part thereof), whether by voluntary act of the Developer or otherwise. Erie agrees that, to the extent it legally may do so, and in compliance with CORA, it shall keep such information confidential and shall protect the same from disclosure. The Developer shall defend, indemnify, and hold Erie, its commissioners, officers and employees, harmless from, all mechanic's liens or lis pendens actions, which may be caused by any of the Developer's design, inspection and construction activities under this Agreement and whether such activities or performance thereof be by the Developer or anyone directly or indirectly employed or contracted with by the

Developer, or the Developer shall carry and shall provide Erie with valid certificates of insurance for mechanic's liens.

13.2 Holder Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement, prior to Completion of Construction, the Holder of any Mortgage authorized by this Agreement shall not be obligated to construct or complete the Improvements (or any part thereof) or to guarantee such construction or completion; provided, that nothing in this Agreement shall be construed to authorize any such Holder to devote the Improvements to any other use or to construct any improvements thereon other than the Improvements.

13.3 Copy of Notice of Default to Mortgagee. Erie shall deliver a copy of any notice or demand to the Developer with respect to any claimed Default by the Developer. Provided that the Holder has provided a notice address to Erie, Erie shall simultaneously forward a copy of each notice or demand sent to the Developer to the Holder at the such address.

13.4 Holder's Option to Cure Defaults. Prior to Completion of Construction, after any Default by the Developer, the Holder shall have the right to cure or remedy such Default and to add the cost thereof to the debt and lien of its Mortgage.

SECTION 14. CONTINGENCIES; TERMINATION

14.1 Termination by Developer. The Developer shall have the right to terminate this Agreement if:

(a) prior to the expiration of the Inspection Period, either Party, after good faith efforts, fails to satisfy its Inspection Period Contingencies; or

(b) prior to the expiration of the Approvals Period, either Party, after good faith efforts, fails to satisfy its Approvals Period Contingencies; or

(c) unless waived by the Developer, the failure of any of the closing conditions set forth in Section 5.2 or elsewhere in this Agreement; or

(d) the Developer reasonably and in good faith determines, based upon the results of soils or environmental tests and within the time periods set forth in the Schedule of Performance, that the soils or environmental conditions or utilities are not satisfactory to carry out development of the Property or construction of the Improvements; or

(e) unless waived by the Developer, title to the Property does not conform with the requirements of Section 5.4 at the time specified in the Schedule of Performance.

14.2 Termination by Erie. Erie shall have the right to terminate this Agreement if:

(a) prior to the expiration of the Inspection Period, the Developer, after good faith efforts, fails to satisfy its Inspection Period Contingencies; or

(b) prior to the expiration of the Approvals Period, the Developer, after good faith efforts, fails to satisfy its Approvals Period Contingencies.

14.3 Action to Terminate. Termination must be upon the dates specified in this Agreement, inclusive of the Schedule of Performance, and must be accomplished by written notification to the other Party. Except as otherwise provided in this Agreement, failure to terminate this Agreement for any failure identified in this SECTION 14 constitutes a waiver of the right to terminate this Agreement for that particular failure only and shall not constitute a waiver of the right to terminate this Agreement for any other failure under such sections. No action to terminate shall occur until the notice and Grace Period provisions set forth in Section 15.3 have been fulfilled.

14.4 Effect of Termination. If this Agreement is terminated pursuant to this SECTION 14, each Party shall pay its own costs and expenses related to this Agreement. In addition, the Parties agree to execute a mutual release, lease termination(s), quit claim deed and other instruments reasonably required to effectuate and give notice of such termination.

SECTION 15. DEFAULT; REMEDIES

15.1 Default by Developer. Default by Developer under this Agreement shall mean one or more of the following events:

(a) The Developer, in violation of this Agreement, assigns or attempts to assign this Agreement, the Improvements or any part of its interest in Property, or any rights in the same, except as allowed in Section 12.1; or

(b) the Developer fails to commence, diligently pursue and complete the Contingencies as required by this Agreement and this Agreement has not been terminated under the provisions of SECTION 14; or

(c) prior to issuance of a Certificate of Occupancy for the Anchor Tenant, the Developer suffers or permits any lien, uncured default or encumbrance on the Property or the Improvements in violation of this Agreement, but a lien shall not constitute a Default if Developer deposits in escrow with Erie or the Title Company sufficient funds or undertakes other measures reasonably satisfactory to Erie to discharge the lien, which may include bonding over in accordance with Colorado statutes;

(d) the Developer fails to observe or perform any other covenant or obligation required of it under this Agreement or to make good faith efforts to obtain Developer's Financing or any representation or warranty made by the Developer under this Agreement is materially false when made;

(e) a Holder exercises any remedy provided by loan documents, law or equity that creates a materially adverse effect on the Property or the Improvements, but such default by the Developer shall not defeat the rights of any Holder hereunder; or

(f) prior to issuance of a Certificate of Occupancy for the Anchor Tenant, the Developer fails to perform its obligations to a Holder resulting in an uncured event of default under a Mortgage.

If any of the foregoing Defaults is not cured within the time provided in Section 15.3, then Erie may exercise any remedy available under Sections 15.4, 15.5 and 15.6.

15.2 Default by Erie. Default by Erie under this Agreement shall mean one or more of the following events:

(a) failure of Erie to comply with the provisions of SECTION 13 relating to the rights of the Holder of a Mortgage under the circumstances set forth therein; or

(b) Erie fails to observe or perform any other covenant or obligation required of it under this Agreement or any representation or warranty made by Erie under this Agreement is materially false when made.

If any of the foregoing defaults is not cured within the time provided in Section 15.3, then the Developer may exercise any remedy available under Section 15.4 and 15.6.

15.3 Grace Periods. Upon a Default by either Party, such Party shall, upon written notice from the other, proceed immediately to cure or remedy such Default. Any Default shall be cured within thirty (30) days after receipt of such notice, or such cure shall be commenced and diligently pursued to completion within a reasonable time, but in any event no longer than ninety (90) days, if curing cannot be reasonably accomplished within thirty (30) days and the Party has commenced curing within such thirty (30) day period and diligently pursues such cure to completion.

15.4 Remedies on Default. Whenever any Default occurs and is not cured under Section 15.3 of this Agreement, the non-defaulting Party may take any one or more of the following actions:

(a) Suspend performance under this Agreement until it receives assurances from the defaulting Party, deemed adequate by the non-defaulting Party, that the defaulting Party will cure its Default and continue its performance under this Agreement within a reasonable time; or

(b) subject to the rights of a Holder, cancel and rescind this Agreement; or

(c) take whatever legal or administrative action or institute such proceedings as may be necessary or desirable in its opinion to enforce observance or performance of this Agreement, including, without limitation, specific performance or to seek any other right or remedy at law or in equity, including damages.

15.5 Other Rights and Remedies. Erie and the Developer shall have the right to institute such actions or proceedings as either may deem desirable for effectuating the purposes of this SECTION 15. If a Party must commence legal action to enforce its rights and remedies under this Agreement, the prevailing Party shall be entitled to receive, in addition to any other relief, its costs and expenses, including reasonable attorneys' fees, of such action or enforcement.

15.6 Delays; Waivers. Any delay by either Party in pursuing any right or remedy under this Agreement shall not operate as a waiver of such right or remedy in any way; nor shall any

waiver made by such Party be considered or treated as a waiver of any right or remedy with respect to any other Default by the other Party or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of the right or remedy by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

15.7 Enforced Delay in Performance for Causes Beyond Control of Party. Anything in this Agreement to the contrary notwithstanding, neither Party shall be considered in Default in the event of enforced delay in the performance of obligations under this Agreement due to Force Majeure, discovery of Hazardous Substances on the Property, acts of the other Party, acts of third parties (including the effect of any petitions for initiative or referendum), the effect of any condition precedent to any obligation of either Party over which such Party has no control, the effect of litigation, acts of courts, it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Party claiming such delay, shall be extended for the period of the enforced delay.

15.8 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of any such remedy shall not preclude the exercise by it, at the same or different times, of any other remedy for any other Default by any other Party.

SECTION 16. MISCELLANEOUS

16.1 Conflicts of Interest. None of the following shall have any personal interest, direct or indirect, in this Agreement: a member of Erie Council; an employee of Erie who exercises responsibility concerning the Development Plan; or an individual or firm retained by Erie who has performed consulting services in connection with the Development Plan. None of the above persons or entities shall participate in any decision relating to this Agreement that effects his or her personal interests or the interests of any entity in which he or she is directly or indirectly interested.

16.2 Antidiscrimination. The Developer, for itself and its successors and assigns, agrees that in the construction of and in the use and occupancy of the Property and the Improvements, the Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, disability, marital status, ancestry or national origin.

16.3 No Merger. None of the provisions of this Agreement shall be merged by reason of the Deed transferring title to the Property from Erie to the Developer, and such Deed shall not be deemed to affect or impair the provisions of this Agreement.

16.4 Title of Sections. Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

16.5 No Third-Party Beneficiaries. Except for specific rights in favor of Mortgagees or Affiliates, no third-party beneficiary rights are created in favor of any person not a party to this Agreement.

16.6 Venue and Applicable Law. Any action arising out of this Agreement shall be brought in the Boulder County District Court and the laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement.

16.7 Nonliability of Town Officials, Agents and Employees. No council member, board member, commissioner, official, employee, consultant, attorney or agent of Erie shall be personally liable to the Developer under this Agreement or in the event of any Default by Erie or for any amount that may become due to the Developer.

16.8 Erie Not a Partner; Developer Not Erie's Agent. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, Erie shall not be deemed or constituted a partner or joint venture of the Developer. The Developer shall not be the agent of Erie and Erie shall not be responsible for any debt or liability of the Developer or any operator or manager of the Improvements.

16.9 Integrated Contract. This Agreement is an integrated contract and invalidation of any of its provisions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect unless the Parties otherwise agree in writing to an amendment.

16.10 Counterparts. The Agreement is executed in counterparts, each of which shall constitute one and the same instrument.

16.11 Notices. A notice, demand or other communication under this Agreement by any Party to the other shall be in writing and sufficiently given if delivered in person or if it is delivered by overnight courier service with guaranteed next-day delivery or by certified mail, return receipt requested, postage prepaid or by electronic mail, return receipt requested, and

(a) in the case of the Developer, is addressed to or delivered to the Developer as follows:

Evergreen Devco, Inc.
Attention: Tyler Carlson
1873 South Bellaire Street, Suite 1106
Denver, Colorado 80222
Email: tcarlson@evgre.com

with a copy to:

Evergreen Devco, Inc.
Attention: Russell Perkins
2390 East Camelback Road, Suite 410
Phoenix, Arizona 85016
Email: rperkins@evgre.com

and

Lathrop & Gage, LLP
Attention: Brian P. Jumps
950 Seventeenth Street, Suite 2400
Denver, Colorado 80202
Email: bjumps@lathropgage.com

(b) in the case of Erie, is addressed to or delivered to Erie as follows:

Town of Erie
Attention: A.J. Krieger, Town Administrator
645 Holbrook Street
P.O. Box 750
Erie, Colorado 80516
Email: townadministrator@erieco.gov

with a copy to:

Town of Erie
Attention: Mark Shapiro, Town Attorney
645 Holbrook Street
P.O. Box 750
Erie, Colorado 80516
Email: mark@mshapirolaw.com

and

Brownstein Hyatt Farber Schreck LLP
Attention: Carolynne White
410 17th Street, Suite 2200
Denver, Colorado 80202
Email: cwhite@bhfs.com

or at such other address with respect to any such Party as that Party may, from time to time, designate in writing and forward to the other as provided in this section.

16.12 Good Faith of Parties. In performance of this Agreement or in considering any requested extension of time or in the giving of any approval, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold, delay or condition any approval required by this Agreement.

16.13 Exhibits Merged. All Exhibits annexed to this Agreement shall be deemed to be expressly integrated herein.

16.14 Days. If the day for any performance or event provided for herein is a Saturday, Sunday or other day on which either national banks or the office of the Clerk and Recorder of Boulder County, Colorado, is not open for the regular transaction of business, such day therefor shall be extended until the next day on which said banks or said office are open for the transaction of business.

16.15 Further Assurances. Each Party agrees to execute such documents and take such action as shall be reasonably requested by the other Party to confirm, clarify or effectuate the provisions of this Agreement. The Parties agree to cooperate with each other during the term of this Agreement by granting to each other such reciprocal easements, cross easements and rights of way for pedestrian and vehicular ingress and egress, walkways, parking and such other matters as may be reasonably required for the proper development and use of the Property in accordance with this Agreement. Prior to the Commencement of Construction, the Parties will use their reasonable best efforts to agree upon and place of record with the Clerk and Recorder of Boulder County, Colorado, a memorandum of this Agreement or other mutually acceptable form of the covenants contained in this Agreement; provided, however, notwithstanding the foregoing, if the Parties fail to agree on the form and contents of such memorandum or covenants, Erie, in its sole discretion, may elect to record this entire Agreement, including any amendments.

16.16 Certifications. Each Party agrees to execute such documents as the other Party may reasonably request to verify or confirm the status of this Agreement and of the performance of the obligations hereunder and such other matters as the requesting Party may reasonably request.

16.17 Amendments. This Agreement shall not be amended except by written instrument signed and delivered by the Parties.

16.18 Representations and Warranties. No representations or warranties whatever are made by any Party except as specifically set forth in this Agreement.

16.19 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The Town Administrator is authorized to make, and may have made, minor changes in this Agreement and the attached Exhibits as they have considered necessary, provided however that such changes have been previously approved in writing by Developer. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of this Agreement shall constitute conclusive evidence of the approval of such changes by the respective Parties.

16.20 Due Diligence Materials. Upon any termination of this Agreement, Developer shall promptly provide Erie (without representation or warranty of any kind) with copies of all non-proprietary, non-confidential due diligence materials produced in connection with the Property.

[Signature page follows.]

IN WITNESS WHEREOF, Erie and the Developer have caused this Agreement to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: ~~Vice President~~ Principal

ERIE:

TOWN OF ERIE,
a Colorado municipal home rule corporation

By: _____
Name: Tina Harris
Title: Mayor

TOWN OF ERIE URBAN RENEWAL AUTHORITY,
a Colorado urban renewal authority

By: _____
Name: Tina Harris
Title: Chair

EXHIBIT A
Legal Description of Property

[to be inserted]

EXHIBIT B

Schedule of Performance

Event		Date
General Provisions		
A1.	Effective Date of this Agreement.	_____ ____, 2016
A2.	Erie delivers the Property Information to the Developer.	30 days after the Effective Date
A3.	Developer completes review of due diligence.	Expiration of the Inspection Period
A4.	Developer completes all Governmental Approvals.	Expiration of the Approvals Period
Development Plan and Financing		
1-1.	Developer commences planning, design and engineering for the Property.	Effective Date
1-2.	Developer submits evidence of Developer's Financing to Erie.	Expiration of the Inspection Period
1-3.	Date for approval or disapproval of Developer's Financing by Erie.	30 days after Item 1-2
Property Development		
2-1.	Commencement of Construction of Improvements by the Developer.	TBD
2-2.	Completion of Construction by Developer of Improvements.	TBD

EXHIBIT C

Special Warranty Deed

THE [TOWN OF ERIE/TOWN OF ERIE URBAN RENEWAL AUTHORITY] ("Grantor"), a Colorado [statutory town/urban renewal authority], whose address is 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516, for the consideration of the sum of One Dollar ($1.00) in hand paid, hereby sells and conveys to EVERGREEN DEVCO, INC., a California corporation ("Grantee"), whose legal address is 12460 1st Street, Eastlake, Colorado 80614, the following real property in the County of Boulder, State of Colorado, to wit:

See Exhibit A

with all of its appurtenances, and warrants the title against all persons claiming under it, subject to the following permitted exceptions:

See Exhibit B

Signed this _____ day of _____, 201__

GRANTOR:

[TOWN OF ERIE/TOWN OF ERIE URBAN RENEWAL AUTHORITY]

By: _____
Name: _____
Title: _____

ATTEST:

_____
Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ____ day of _____, 201__, by _____, as _____, of the [Town of Erie/Town of Erie Urban Renewal Authority], a Colorado [statutory town/urban renewal authority].

My commission expires:

WITNESS my hand and official seal.

_____
Notary Public

Exhibit A to Special Warranty Deed
Legal Description of Property

[to be inserted]

Exhibit B to Special Warranty Deed
Permitted Exceptions

[to be inserted]

EXHIBIT D

Developer's Information Statement

1. Name, address, telephone and facsimile number of Developer:

c/o Evergreen Devco, Inc.
Attention: Tyler Carlson
1873 South Bellaire Street, Suite 1106
Denver, Colorado 80222
Telephone: 303-757-0462
Fascimile: 602-567-7147
Email: tcarlson@evgre.com

2. Federal Identification Number of Developer: _____ **[TO BE INSERTED]**

3. Name, address, title and telephone number of corporate officers of Developer and their percentage of ownership interest in Developer:

c/o Evergreen Devco, Inc.
Attention: Bruce Pomeroy
2390 East Camelback Road, Suite 410
Phoenix, Arizona 85016
Telephone: 602-808-8600
Facsimile: 602-808-9100
Email: bpomeroy@evgre.com

c/o Evergreen Devco, Inc.
Attention: Andrew Skipper
2390 East Camelback Road, Suite 410
Phoenix, Arizona 85016
Telephone: 602-808-8600
Facsimile: 602-808-9100
Email: askipper@evgre.com

c/o Evergreen Devco, Inc.
Attention: Laura Ortiz
2390 East Camelback Road, Suite 410
Phoenix, Arizona 85016
Telephone: 602-808-8600
Facsimile: 602-808-9100
Email: lortiz@evgre.com

4. Date of Organization of Developer: _____ **[TO BE INSERTED]**

5. Name, address and telephone number of principal members of Developer's team of consultants and advisors:

Attorney:

Lathrop & Gage, LLP
950 Seventeenth Street, Suite 2400
Denver, Colorado 80202
Attention: Brian P. Jumps
Telephone: 720-931-3132
Facsimile: 720-931-3201
E-Mail: bjumps@lathropgage.com

Architectural/Engineering:

Galloway & Company, Inc.
Attention: Carl T. Schmidtlein
5300 DTC Parkway, Suite 100
Greenwood Village, CO 80111
Telephone: 303-770-8884
Fascimile: 303-770-3636
Email: carlschmidtlein@gallowayus.com

Project Manager:

Evergreen Devco, Inc.
Attention: Russell Perkins
2390 East Camelback Road, Suite 410
Phoenix, Arizona 85016
Telephone: 602-567-7129
Facsimile: 602-567-7143
Email: rperkins@evgre.com

Acquisition Manager:

Evergreen Devco, Inc.
Attention: Tyler Carlson
1873 South Bellaire Street, Suite 1106
Denver, Colorado 80222
Telephone: 303-757-0462
Fascimile: 602-567-7147
Email: tcarlson@evgre.com

EXHIBIT E

Controlled Fee Schedule

[to be inserted]

FIRST AMENDMENT TO THE
DISPOSITION AND DEVELOPMENT AGREEMENT

This First Amendment to the Disposition and Development Agreement ("**First Amendment**") is made as of this 13th day of December, 2016, by and among the Town of Erie, a Colorado statutory town (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement, dated March 22, 2016 (the "**Agreement**"), pursuant to which the Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual obligations of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Agreement.

2. Inspection Period. Section 3.4 of the Agreement is hereby amended to replace the phrase "Developer shall have one hundred eighty (180) days from the Effective Date (the "Inspection Period")" with the phrase "Developer shall have until May 1, 2017 (the "Inspection Period")".

3. TOEURA Approvals. Section 5.2 (c) of the Agreement is hereby amended to replace the phrase "Within one hundred eighty (180) days of the Effective Date" with the phrase "No later than May 1, 2017".

4. Exhibit A. Exhibit A to the Agreement is hereby amended and restated as provided in the attached Exhibit A.

5. Miscellaneous.

a) Full Force and Effect. Except as amended by this Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by Erie and the Developer. In the event of any conflict between the Agreement and this Amendment, the terms and conditions of this Amendment shall control.

b) Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

c) Entire Agreement. This Amendment contains the entire agreement of Erie and the Developer with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Erie and the Developer.

d) Power and Authority. Erie and the Developer have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Amendment.

e) Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f) Attorneys' Fees. In the event of litigation arising out of or in connection with this Amendment, the prevailing party shall be awarded reasonable attorneys' fees, costs and expenses.

g) Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

[Signature page follows.]

IN WITNESS WHEREOF, Erie and the Developer have caused this Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Principal

ERIE:

TOWN OF ERIE,
a Colorado statutory town

By: _____
Name: Mark Gruber
Title: Mayor Pro Tem

TOWN OF ERIE URBAN RENEWAL AUTHORITY,
a Colorado urban renewal authority

By: _____
Name: Mark Gruber
Title: Chairperson Pro Tem

016294\0004\15244580.2

EXHIBIT A

Legal Description – Parcels A and B

PARCEL A:
PART OF THE NORTH HALF NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF NORTHEAST QUARTER FROM WHENCE THE NORTHWEST CORNER OF SAID NORTH HALF NORTHEAST QUARTER BEARS NORTH 00°04'00" EAST; THENCE SOUTH 89°48'30" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF NORTHEAST QUARTER, A DISTANCE OF 1434.83 FEET; THENCE NORTH 00°14'20" EAST, 845.98 FEET TO THE SOUTH LINE OF THAT PROPERTY CONVEYED BY FLOYD E. HARRIS AND NEVADIA HARRIS TO LEONARD L. LANHAM AND NINA E. LANHAM, RECORDED MAY 15, 1968 ON FILM 635 AT RECEPTION NO. 879012; THENCE NORTH 89°41'50" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 366.57 FEET TO A POINT ON THE EAST LINE OF THAT PROPERTY CONVEYED BY DEED FROM FLOYD EUGENE HARRIS AND NEVADIA HARRIS TO THE TOWN OF ERIE, A MUNICIPAL CORPORATION, RECORDED APRIL 29, 1968 IN FILM 633 AT RECEPTION NO. 877395; THENCE SOUTH 00°58'00" WEST ALONG SAID EAST LINE, 31.12 FEET TO THE CENTERLINE OF THE SOUTH BOULDER CANYON IRRIGATION DITCH; THENCE TRAVERSING ALONG THE CENTERLINE OF SAID DITCH AND THE SOUTH LINE OF PROPERTY DESCRIBED ON FILM 633 AT RECEPTION NO. 877395, THE FOLLOWING COURSES AND DISTANCES: SOUTH 71°36'00" WEST 508.65 FEET;
THENCE SOUTH 73°48'00" WEST, 241.52 FEET;
THENCE NORTH 89°40'00" WEST, 140.82 FEET;
THENCE NORTH 77°42'00" WEST, 114.23 FEET;
THENCE NORTH 62°24'00" WEST, 118.52 FEET TO A POINT ON THE WEST LINE OF THE NORTH HALF NORTHEAST QUARTER OF SAID SECTION 34;
SAID POINT BEING ALSO THE SOUTHWEST CORNER OF THAT PROPERTY DESCRIBED ON FILM 633 AT RECEPTION NO. 877395; THENCE SOUTH 00°04'00" WEST ALONG SAID WEST LINE OF THE NORTH HALF NORTHEAST QUARTER, A DISTANCE OF 675.12 FEET TO THE TRUE POINT OF BEGINNING,

EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED RECORDED APRIL 15, 1983 AT RECEPTION NO. 543786, AND IN DEED RECORDED FEBRUARY 20, 1997 ON FILM NO. 2187 AT RECEPTION NO. 1678309,
COUNTY OF BOULDER, STATE OF COLORADO.

PARCEL B:

A PORTION OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID NORTHEAST $\frac{1}{4}$, 20 FEET WEST OF THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE NORTH 89°41'50" WEST ALONG SAID NORTH LINE, 230.64 FEET; THENCE SOUTH 00°58' WEST, 469.96 FEET; THENCE SOUTH 89°41'50" EAST, 618.52; THENCE NORTH 00°14'20" EAST, 469.93 FEET TO THE NORTH LINE OF SAID NORTHEAST 1/4; THENCE NORTH 89°41'50" WEST, ALONG SAID NORTH LINE TO THE TRUE POINT OF BEGINNING;
EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF BOULDER BY THE DEED RECORDED NOVEMBER 29, 1913 IN BOOK 381 AT PAGE 127,

COUNTY OF BOULDER, STATE OF COLORADO.

EXHIBIT A

Legal Description – Parcels C1 and C2

PARCEL C:

PARCEL I:

A PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTH 1/4 CORNER OF SAID SECTION; THENCE SOUTH 0°09' WEST 642.7 FEET; THENCE SOUTH 69° 45' EAST 211.4 FEET; THENCE NORTH 85° EAST 195 FEET; THENCE NORTH 71°53' EAST 718 FEET; THENCE NORTH 24°20' EAST 539 FEET TO A POINT O N THE NORTH LINE OF SAID SECTION, 20 FEET WEST OF THE NORTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE WEST ALONG SAID NORTH LINE OF SAID SECTION TO THE PLACE OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF BOULDER BY THE DEED RECORDED NOVEMBER 29, 1913 IN BOOK 381 AT PAGE 127;
AND EXCEPT THAT PORTION DESCRIBED IN DEED RECORDED APRIL 29, 1968 UNDER RECEPTION NO. 877396;
AND EXCEPT THAT PORTION CONVEYED TO THE STATE DEPARTMENT OF HIGHWAYS, DIVISION OF HIGHWAYS, STATE OF COLORADO, BY THE DEED RECORDED FEBRUARY 8, 1983 UNDER RECEPTION NO. 532304.
AND EXCEPT THAT PORTION CONVEYED TO THE DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO BY THE DEED RECORDED JANUARY 2, 1998 UNDER RECEPTION NO. 1759789.

PARCEL II:

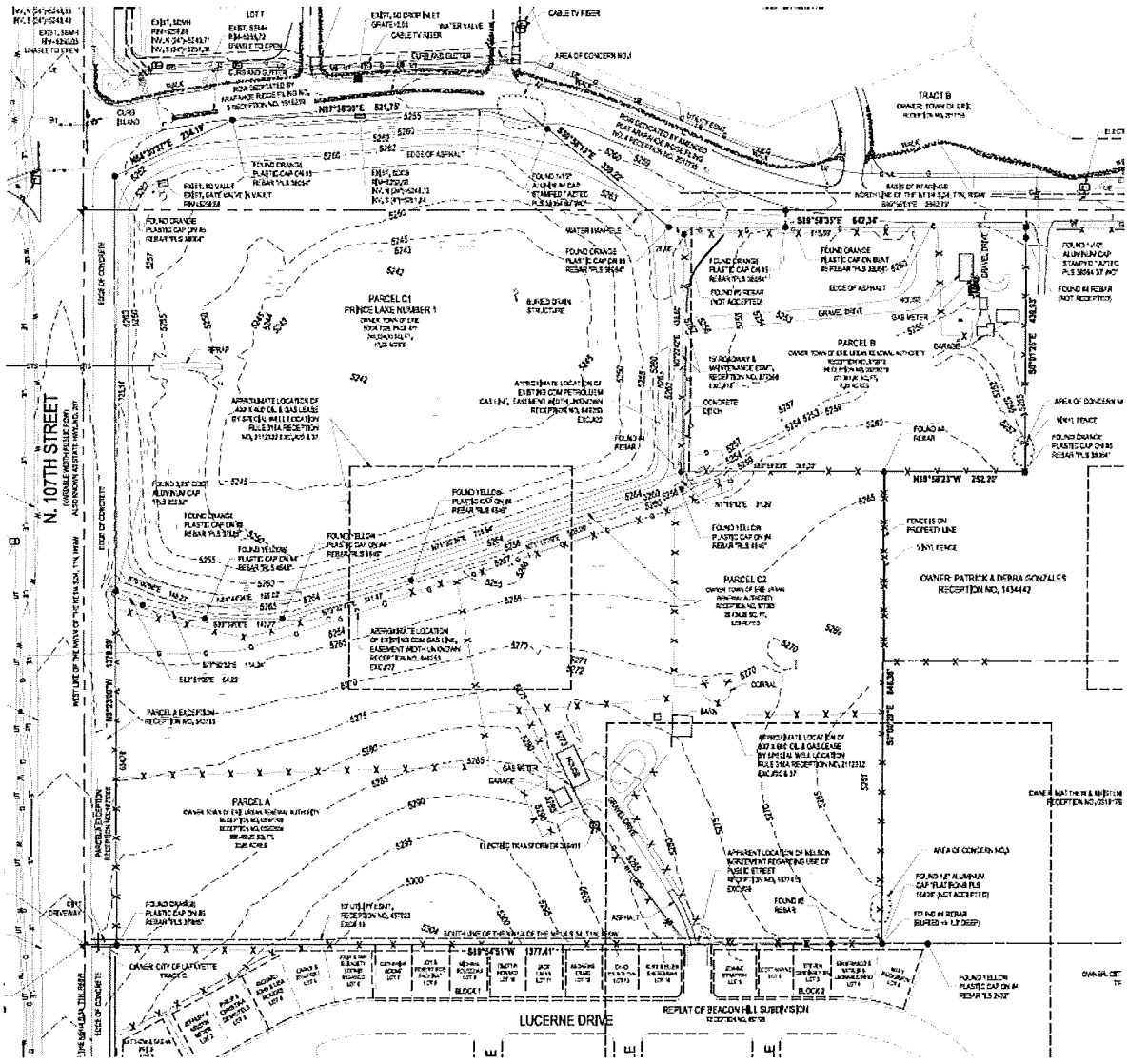
A PORTION OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, THENCE SOUTH 0°09' WEST, 642.7 FEET; THENCE SOUTH 69°45' EAST, 2.59 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34, THE TRUE POINT OF BEGINNING; THENCE SOUTH 69°45' EAST, 208.81 FEET; THENCE NORTH 85°0' EAST, 195.00 FEET; THENCE NORTH 71°53' EAST, 718.00 FEET; THENCE SOUTH 0°58' WEST, 31.12 FEET TO A POINT ON THE CENTERLINE OF THE SOUTH BOULDER CANYON DITCH; THENCE WESTERLY, ALONG THE SAID DITCH CENTERLINE AS FOLLOWS: SOUTH 71°36' WEST, 508.65 FEET; SOUTH 73°48' WEST, 241.52 FEET; NORTH 89°40' WEST, 140.82 FEET; NORTH 77°42' WEST, 114.23 FEET; NORTH 62°24' WEST, 118.52 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE NORTH 0°04' WEST, ALONG THE SAID WEST LINE OF THE NORTHEAST QUARTER, 11.00 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE DEPARTMENT OF HIGHWAYS DIVISION OF HIGHWAYS, STATE OF COLORADO BY DEED RECORDED FEBRUARY 8, 1983 UNDER RECEPTION NO. 532304.

EXHIBIT A

Graphic Depiction of Parcels A, B, C1 and C2



SECOND AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT

This Second Amendment to the Disposition and Development Agreement ("**Second Amendment**") is made as of this 9th day of May, 2017, by and among the Town of Erie, a Colorado statutory town (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement, dated March 22, 2016, as amended by that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 (collectively, the "**Agreement**"), pursuant to which the Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual obligations of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Agreement.

2. Inspection Period. Section 3.4 of the Agreement is hereby amended to replace the phrase "Developer shall have one hundred eighty (180) days from the Effective Date (the "Inspection Period")" with the phrase "Developer shall have until December 1, 2017 (the "Inspection Period")".

3. TOEURA Approvals. Section 5.2 (c) of the Agreement is hereby amended to replace the phrase "Within one hundred eighty (180) days of the Effective Date" with the phrase "No later than December 1, 2017".

4. Miscellaneous.

a) Full Force and Effect. Except as amended by this Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by Erie and the Developer. In the event of any conflict between the Agreement and this Amendment, the terms and conditions of this Amendment shall control.

b) Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

c) Entire Agreement. This Amendment contains the entire agreement of Erie and the Developer with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Erie and the Developer.

d) Power and Authority. Erie and the Developer have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Amendment.

e) Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f) Attorneys' Fees. In the event of litigation arising out of or in connection with this Amendment, the prevailing party shall be awarded reasonable attorneys' fees, costs and expenses.

g) Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

[Signature page follows.]

IN WITNESS WHEREOF, Erie and the Developer have caused this Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: ~~Vice President~~ Executive Vice President

ERIE:

TOWN OF ERIE,
a Colorado statutory town

By: _____
Name: Tina Harris
Title: Mayor

TOWN OF ERIE CORPORATE SEAL COLORADO

TOWN OF ERIE URBAN RENEWAL AUTHORITY,
a Colorado urban renewal authority

By: _____
Name: Tina Harris
Title: Chairperson

TOWN OF ERIE CORPORATE SEAL COLORADO URBAN RENEWAL AUTHORITY

THIRD AMENDMENT TO THE
DISPOSITION AND DEVELOPMENT AGREEMENT

This Third Amendment to the Disposition and Development Agreement ("**Third Amendment**") is made as of this 12th day of December, 2017, by and among the Town of Erie, a Colorado statutory town (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement, dated March 22, 2016 (the "**Agreement**"), pursuant to which the Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 ("First Amendment");

WHEREAS, Erie and the Developer entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 ("Second Amendment");

WHEREAS, Erie and the Developer desire to further amend the Agreement pursuant to the terms of this Third Amendment.

NOW, THEREFORE, in consideration of the mutual obligations of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Agreement.

2. Inspection Period. Section 3.4 of the Agreement is hereby amended to extend the Inspection Period until June 1, 2018.

3. TOEURA Approvals. Section 5.2 (c) of the Agreement is hereby amended to extend the TOEURA Approvals deadline until June 1, 2018.

4. Miscellaneous.

a) Full Force and Effect. Except as amended by this Third Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by Erie and the Developer. In the event of any conflict between the Agreement, the First Amendment or Second Amendment and this Third Amendment, the terms and conditions of this Third Amendment shall control.

b) Successors and Assigns. This Third Amendment shall be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

c) Entire Agreement. This Third Amendment contains the entire agreement of Erie and the Developer with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Erie and the Developer.

d) Power and Authority. Erie and the Developer have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Third Amendment.

e) Counterparts. This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f) Attorneys' Fees. In the event of litigation arising out of or in connection with this Third Amendment, the prevailing party shall be awarded reasonable attorneys' fees, costs and expenses.

g) Governing Law. This Third Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

[Signature page follows.]

IN WITNESS WHEREOF, Erie and the Developer have caused this Third Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Managing Principal

ERIE:

TOWN OF ERIE,
a Colorado statutory town

By: _____
Name: Tina Harris
Title: Mayor

TOWN OF ERIE CORPORATE SEAL COLORADO

TOWN OF ERIE URBAN RENEWAL AUTHORITY,
a Colorado urban renewal authority

By: _____
Name: Tina Harris
Title: Chairperson

TOWN OF ERIE CORPORATE SEAL COLORADO URBAN RENEWAL AUTHORITY

FOURTH AMENDMENT TO THE
DISPOSITION AND DEVELOPMENT AGREEMENT

This Fourth Amendment to the Disposition and Development Agreement ("**Third Amendment**") is made as of this 8th day of May, 2018, by and among the Town of Erie, a Colorado statutory town (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement, dated March 22, 2016 (the "**Agreement**"), pursuant to which the Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 ("First Amendment");

WHEREAS, Erie and the Developer entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 ("Second Amendment");

WHEREAS, Erie and the Developer entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12th, 2017 ("Third Amendment");

WHEREAS, Erie and the Developer desire to further amend the Agreement pursuant to the terms of this Fourth Amendment.

NOW, THEREFORE, in consideration of the mutual obligations of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Agreement.

2. Inspection Period. Section 3.4 of the Agreement is hereby amended to extend the Inspection Period until September 1, 2018.

3. TOEURA Approvals. Section 5.2 (c) of the Agreement is hereby amended to extend the TOEURA Approvals deadline until September 1, 2018.

4. Miscellaneous.

a) Full Force and Effect. Except as amended by this Fourth Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by Erie and the Developer. In the event of any conflict between the Agreement, the First Amendment or

Second Amendment or Third Amendment and this Fourth Amendment, the terms and conditions of this Fourth Amendment shall control.

b) Successors and Assigns. This Fourth Amendment shall be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

c) Entire Agreement. This Fourth Amendment contains the entire agreement of Erie and the Developer with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Erie and the Developer.

d) Power and Authority. Erie and the Developer have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Fourth Amendment.

e) Counterparts. This Fourth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f) Attorneys' Fees. In the event of litigation arising out of or in connection with this Fourth Amendment, the prevailing party shall be awarded reasonable attorneys' fees, costs and expenses.

g) Governing Law. This Fourth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

[Signature page follows.]

IN WITNESS WHEREOF, Erie and the Developer have caused this Fourth Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Executive Vice President

ERIE:

TOWN OF ERIE,
a Colorado statutory town

By: _____
Name: Jennifer Carroll
Title: Mayor

TOWN OF ERIE URBAN RENEWAL AUTHORITY,
a Colorado urban renewal authority

By: _____
Name: Jennifer Carroll
Title: Chairwoman Carroll

FIFTH AMENDMENT TO THE
DISPOSITION AND DEVELOPMENT AGREEMENT

This Fifth Amendment to the Disposition and Development Agreement ("**Fifth Amendment**") is made as of this 13th day of August, 2019 (the "Effective Date"), by and among the Town of Erie, a Colorado statutory town (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement, dated March 22, 2016 (the "**Agreement**"), pursuant to which the Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 ("**First Amendment**");

WHEREAS, Erie and the Developer entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 ("**Second Amendment**");

WHEREAS, Erie and the Developer entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12th, 2017 ("**Third Amendment**");

WHEREAS, Erie and the Developer entered into that certain Fourth Amendment to the Disposition and Development Agreement dated May 8th, 2018 ("**Fourth Amendment**");

WHEREAS, Erie and the Developer desire to further amend the Agreement pursuant to the terms of this Fifth Amendment.

NOW, THEREFORE, in consideration of the mutual obligations of the parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Agreement.

2. Inspection Period Contingencies. Erie and the Developer hereby acknowledge the Inspection Period Contingencies in Sections 3.5(a), 3.5(b), 3.5(c), 3.5(d) and 3.5(g) have been waived or satisfied by the Parties and Erie waives its rights to terminate under Sections 3.5 and 14.2(a). The Inspection Period Contingencies in Sections 3.5(e) and 3.5(f) remain outstanding obligations of Erie to the Developer and Developer retains the right to terminate under Section 3.5 until Erie's obligations under Sections 3.5(e) and 3.5(f) are satisfied.

3. Approvals Period. Section 4.1 of the Agreement is hereby amended to extend the Approvals Period until February 28th, 2020.

4. Exhibit A. Exhibit A to the Agreement, as amended by the First Amendment, is hereby further amended and restated as provided in the attached Exhibit A.

5. Miscellaneous.

a) Full Force and Effect. Except as amended by this Fifth Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by Erie and the Developer. In the event of any conflict between the Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and this Fifth Amendment, the terms and conditions of this Fifth Amendment shall control.

b) Successors and Assigns. This Fifth Amendment shall be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

c) Entire Agreement. This Fifth Amendment contains the entire agreement of Erie and the Developer with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Erie and the Developer.

d) Power and Authority. Erie and the Developer have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Fifth Amendment.

e) Counterparts. This Fifth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Erie and the Developer agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f) Governing Law. This Fifth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

g) Notice Updates. The following shall be updated in Section 16.11(a) of the Agreement: the suite number for Developer's Colorado address is 1200 and the notice delivery for Developer's legal counsel is Jumps Law, Attention Brian Jumps, 2579 West Main Street, STE 201, Littleton, CO 80120, Email: bjumps@jumpslaw.com. The following shall be updated in Section 16.11(b) of the Agreement: the Town of Erie Town Administrator notice shall be directed to Malcolm Fleming and the Town of Erie Town Attorney notice shall be directed to Kendra Carberry with an email address of klc@hpwclaw.com.

[Signature page follows.]

IN WITNESS WHEREOF, Erie and the Developer have caused this Fifth Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Executive Vice President

TOWN OF ERIE, COLORADO

_____
Jennifer Carroll, Mayor

ATTEST:

_____
Jessica Koenig, Town Clerk

TOWN OF ERIE URBAN RENEWAL AUTHORITY,
a Colorado urban renewal authority

By: _____
Name: Jennifer Carroll
Title: Madam Chair

Exhibit A

- Legal Description -

PARCEL A:
PART OF THE NORTH HALF NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF NORTHEAST QUARTER FROM WHENCE THE NORTHWEST CORNER OF SAID NORTH HALF NORTHEAST QUARTER BEARS NORTH 00°04'00" EAST; THENCE SOUTH 89°48'30" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF NORTHEAST QUARTER, A DISTANCE OF 1434.83 FEET; THENCE NORTH 00°14'20" EAST, 845.98 FEET TO THE SOUTH LINE OF THAT PROPERTY CONVEYED BY FLOYD E. HARRIS AND NEVADIA HARRIS TO LEONARD L. LANHAM AND NINA E. LANHAM, RECORDED MAY 15, 1968 ON FILM 635 AT RECEPTION NO. 879012; THENCE NORTH 89°41'50" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 366.57 FEET TO A POINT ON THE EAST LINE OF THAT PROPERTY CONVEYED BY DEED FROM FLOYD EUGENE HARRIS AND NEVADIA HARRIS TO THE TOWN OF ERIE, A MUNICIPAL CORPORATION, RECORDED APRIL 29, 1968 IN FILM 633 AT RECEPTION NO. 877395; THENCE SOUTH 00°58'00" WEST ALONG SAID EAST LINE, 31.12 FEET TO THE CENTERLINE OF THE SOUTH BOULDER CANYON IRRIGATION DITCH; THENCE TRAVERSING ALONG THE CENTERLINE OF SAID DITCH AND THE SOUTH LINE OF PROPERTY DESCRIBED ON FILM 633 AT RECEPTION NO. 877395, THE FOLLOWING COURSES AND DISTANCES: SOUTH 71°36'00" WEST 508.65 FEET;
THENCE SOUTH 73°48'00" WEST, 241.52 FEET;
THENCE NORTH 89°40'00" WEST, 140.82 FEET;
THENCE NORTH 77°42'00" WEST, 114.23 FEET;
THENCE NORTH 62°24'00" WEST, 118.52 FEET TO A POINT ON THE WEST LINE OF THE NORTH HALF NORTHEAST QUARTER OF SAID SECTION 34;
SAID POINT BEING ALSO THE SOUTHWEST CORNER OF THAT PROPERTY DESCRIBED ON FILM 633 AT RECEPTION NO. 877395; THENCE SOUTH 00°04'00" WEST ALONG SAID WEST LINE OF THE NORTH HALF NORTHEAST QUARTER, A DISTANCE OF 675.12 FEET TO THE TRUE POINT OF BEGINNING,

EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED RECORDED APRIL 15, 1983 AT RECEPTION NO. 543786, AND IN DEED RECORDED FEBRUARY 20, 1997 ON FILM NO. 2187 AT RECEPTION NO. 1678309,
COUNTY OF BOULDER, STATE OF COLORADO.

PARCEL B:

A PORTION OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID NORTHEAST $\frac{1}{4}$, 20 FEET WEST OF THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE NORTH 89°41'50" WEST ALONG SAID NORTH LINE, 230.64 FEET; THENCE SOUTH 00°58' WEST, 469.96 FEET; THENCE SOUTH 89°41'50" EAST, 618.52; THENCE NORTH 00°14'20" EAST, 469.93 FEET TO THE NORTH LINE OF SAID NORTHEAST 1/4; THENCE NORTH 89°41'50" WEST, ALONG SAID NORTH LINE TO THE TRUE POINT OF BEGINNING;
EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF BOULDER BY THE DEED RECORDED NOVEMBER 29, 1913 IN BOOK 381 AT PAGE 127,

COUNTY OF BOULDER, STATE OF COLORADO.

Exhibit A

– Legal Description Continued -

PARCEL C:

PARCEL I:

A PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTH 1/4 CORNER OF SAID SECTION; THENCE SOUTH 0°09' WEST 642.7 FEET; THENCE SOUTH 69° 45' EAST 211.4 FEET; THENCE NORTH 85° EAST 195 FEET; THENCE NORTH 71°53' EAST 718 FEET; THENCE NORTH 24°20' EAST 539 FEET TO A POINT O N THE NORTH LINE OF SAID SECTION, 20 FEET WEST OF THE NORTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE WEST ALONG SAID NORTH LINE OF SAID SECTION TO THE PLACE OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF BOULDER BY THE DEED RECORDED NOVEMBER 29, 1913 IN BOOK 381 AT PAGE 127;
AND EXCEPT THAT PORTION DESCRIBED IN DEED RECORDED APRIL 29, 1968 UNDER RECEPTION NO. 877396;
AND EXCEPT THAT PORTION CONVEYED TO THE STATE DEPARTMENT OF HIGHWAYS, DIVISION OF HIGHWAYS, STATE OF COLORADO, BY THE DEED RECORDED FEBRUARY 8, 1983 UNDER RECEPTION NO. 532304.
AND EXCEPT THAT PORTION CONVEYED TO THE DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO BY THE DEED RECORDED JANUARY 2, 1998 UNDER RECEPTION NO. 1759789.

PARCEL II:

A PORTION OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, THENCE SOUTH 0°09' WEST, 642.7 FEET; THENCE SOUTH 69°45' EAST, 2.59 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34, THE TRUE POINT OF BEGINNING; THENCE SOUTH 69°45' EAST, 208.81 FEET; THENCE NORTH 85°0' EAST, 195.00 FEET; THENCE NORTH 71°53' EAST, 718.00 FEET; THENCE SOUTH 0°58' WEST, 31.12 FEET TO A POINT ON THE CENTERLINE OF THE SOUTH BOULDER CANYON DITCH; THENCE WESTERLY, ALONG THE SAID DITCH CENTERLINE AS FOLLOWS: SOUTH 71°36' WEST, 508.65 FEET; SOUTH 73°48' WEST, 241.52 FEET; NORTH 89°40' WEST, 140.82 FEET; NORTH 77°42' WEST, 114.23 FEET; NORTH 62°24' WEST, 118.52 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE NORTH 0°04' WEST, ALONG THE SAID WEST LINE OF THE NORTHEAST QUARTER, 11.00 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE DEPARTMENT OF HIGHWAYS DIVISION OF HIGHWAYS, STATE OF COLORADO BY DEED RECORDED FEBRUARY 8, 1983 UNDER RECEPTION NO. 532304.

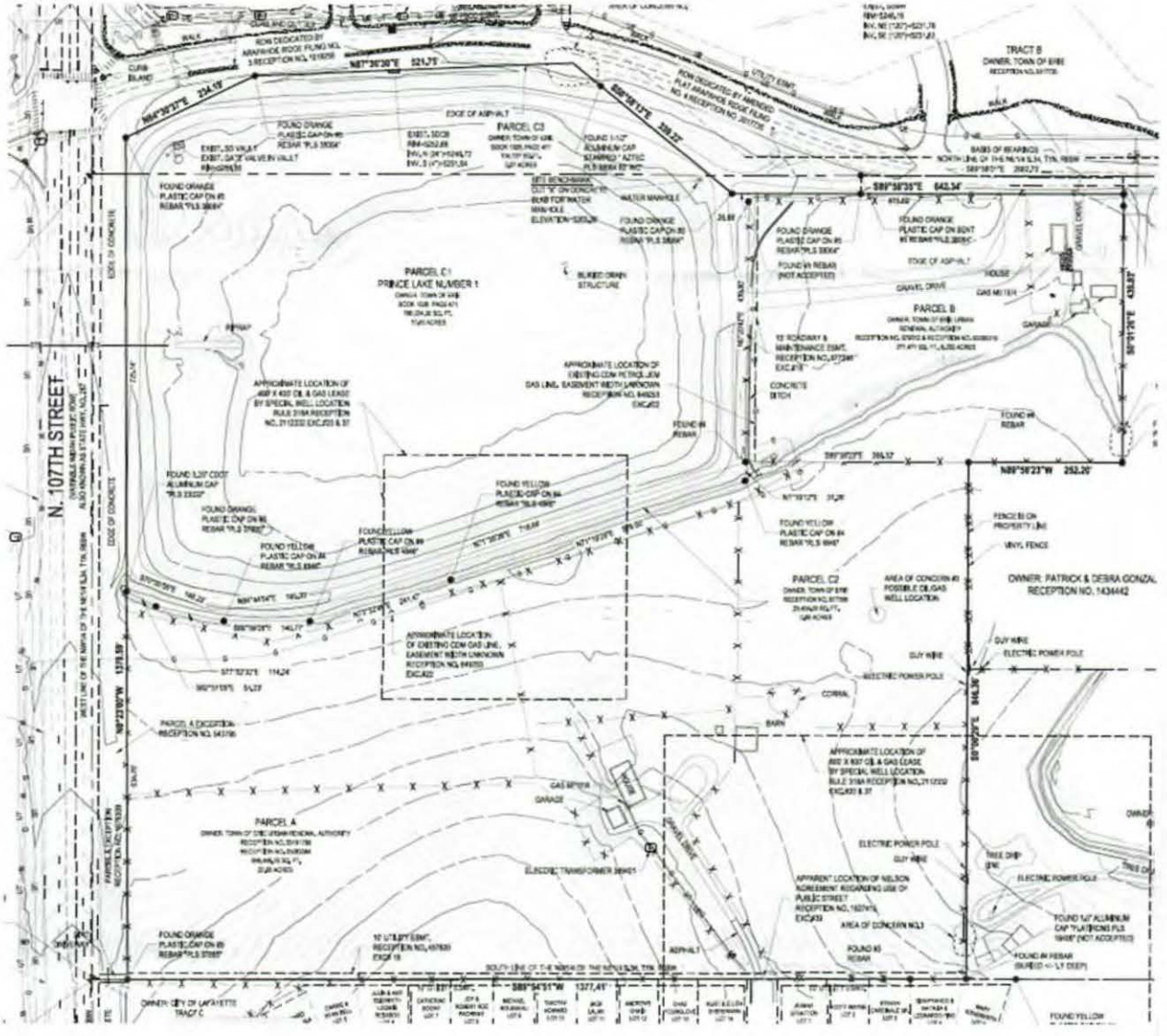
PARCEL III:

THAT PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, LYING SOUTH OF THE COUNTY ROAD AS DESCRIBED IN DEED RECORDED NOVEMBER 29, 1913 IN BOOK 381 AT PAGE 127;

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE DEPARTMENT OF HIGHWAYS, DIVISION OF HIGHWAYS, STATE OF COLORADO, BY THE DEED RECORDED FEBRUARY 8, 1983 UNDER RECEPTION NO. 532304.

Exhibit A

- Graphic Depiction of Parcels A, B, C1, C2 and C3 -



SIXTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT

This Sixth Amendment to the Disposition and Development Agreement (this "**Sixth Amendment**") is made as of this 22nd day of October, 2019 (the "Effective Date"), by and among the TOWN OF ERIE, a Colorado municipal home rule corporation (the "**Town**"), the TOWN OF ERIE URBAN RENEWAL AUTHORITY, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and EVERGREEN-287 & ARAPAHOE, L.L.C., an Arizona limited liability company (the "**Developer**") (each a "Party" and collectively the "Parties").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement dated March 22, 2016 (the "**Original Agreement**"), pursuant to which Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 (the "**First Amendment**");

WHEREAS, Erie and the Developer entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 (the "**Second Amendment**");

WHEREAS, Erie and the Developer entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12th, 2017 (the "**Third Amendment**");

WHEREAS, Erie and the Developer entered into that certain Fourth Amendment to the Disposition and Development Agreement dated May 8th, 2018 (the "**Fourth Amendment**");

WHEREAS, Erie and the Developer entered into that certain Fifth Amendment to the Disposition and Development Agreement dated August 13, 2019 (the "**Fifth Amendment**") (the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment, are hereinafter collectively referred to as the "**Agreement**");

WHEREAS, Erie and the Developer desire to further amend the Agreement pursuant to the terms of this Sixth Amendment.

NOW, THEREFORE, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used, but not defined herein shall have the same meaning as set forth in the Agreement.

2. Definitions.

a. A new definition of "Act" is added to the Agreement as follows:

""Act" means the Special District Act, Colorado Revised Statutes §§ 32-1-101, *et seq.*"

b. A new definition of "Bonds" is added to the Agreement as follows:

""Bonds" means one or more series of bonds issued by the District in accordance with the terms of the Act (as defined below), which may be in the form of a note, loan, or other financial obligation identified as a Bond, including any bonds, notes, loans, or other financial obligations issued by the District to refund Bonds."

c. The definition of "Contingencies" is hereby deleted in its entirety and replaced with the following:

""Contingencies" means (i) the Approvals Period Contingencies; (ii) the Inspection Period Contingencies; and (iii) the Retail Property – Phase 2 Approval Period Contingencies."

d. A new definition of "Costs of Issuance" is added to the Agreement as follows:

""Costs of Issuance" means, collectively, the reasonable and necessary costs (as determined by the District) incurred in connection with the issuance of the Bonds, including, without limitation, compensation for all underwriters or placement agents who have provided services relative to this Agreement or the Bonds, financial consultant fees, fees and expenses of bond counsel, counsel to the underwriter, counsel and consultants to the District, and counsel to any Party or entity from which an opinion of counsel is required, fees and expenses of any provider of credit enhancement, bond insurance, or guaranty, fees and expenses of the trustee, bond registrar, paying agent, rebate agent, escrow verification provider, any fees and/or payments due in connection with the initiation or termination of an interest rate exchange agreement or interest rate cap agreement, and transfer agent and rating agency fees."

e. A new definition of "Developer Advances" is added to the Agreement as follows:

""Developer Advances" means, collectively, amounts advanced to the District by any party to finance the District's capital improvements and related expenditures pursuant to one or more Reimbursement Agreements. Developer Advances shall also include, without limitation, Eligible Costs and Costs of Issuance paid directly by the Developer and reasonably accepted by the District."

f. A new definition of "District" is added to the Agreement as follows:

""District" means the Nine Mile Metropolitan District, a to-be-formed quasi-municipal corporation and political subdivision of the State of Colorado."

g. New definitions of "Eligible Accrued Interest" and "Eligible Costs" are added to the Agreement as follows:

""Eligible Accrued Interest" means simple per annum interest accrued on Developer Advances for Eligible Costs paid directly by Developer and accepted by the District at a rate equal to Prime Rate plus 7%, compounded annually. Interest shall begin to accrue on Developer Advances on the date the Developer Advance is made or, as applicable, from the date of expenditure of the Eligible Cost as reasonably verified by the District pursuant to the terms of any applicable Reimbursement Agreement. "Prime Rate" means the prime rate as published in the Wall Street Journal on the first business day of each calendar month, which shall be adjusted on a current monthly basis as of the first business day of each calendar month."

"Eligible Costs" means, collectively, (a) the reasonable and customary expenditures for engineering, design, installation and construction of eligible improvements, including necessary and reasonable soft costs, including, without limitation, any such costs and expenditures incurred by the District, and (b) Developer Advances and Eligible Accrued Interest. Notwithstanding anything to the contrary in this Agreement, Eligible Costs shall include all additional costs not expressly described in this Agreement that are approved administratively in writing by the Town Administrator, in the Town Administrator's reasonable discretion,, provided such costs are consistent with the intent of Erie and the Developer."

h. New definitions of "Pledged Property Tax Increment Revenue," "Pledged Sales Tax Increment Revenue" and "Pledged Revenues" are added to the Agreement as follows:

""Pledged Property Tax Increment Revenue" means all incremental property tax revenues received by TOEURA generated within the Urban Renewal Plan boundary, net of any offsets retained by the County Treasurer for return of overpayments or as reserve funds as permitted by C.R.S. § 31-25-107(9)(a)(III) and (b)."

"Pledged Sales Tax Increment Revenue" means 100% of the incremental sales tax revenues generated within the Urban Renewal Plan Boundary within the property defined as Retail Property – Phase 1 that TOEURA receives from the Town, such amount being equal to 50% of the total incremental sales tax revenues generated within the Retail Property – Phase 1, as defined below.

"Pledged Revenues" means, collectively, the (i) Pledged Property Tax Increment Revenue; and (ii) Pledged Sales Tax Increment Revenue."

i. A new definition of "Reimbursement Agreement" is added to the Agreement as follows:

> ""Reimbursement Agreement" means, either individually or collectively, one or more agreements between the District and any other party setting forth terms and conditions under which the Developer Advances are accepted by the District for construction or acquisition of the eligible improvements and other Eligible Costs and later reimbursed by the District."

j. The definition of "Retail Property" is hereby deleted in its entirety and replaced with the following:

> ""Retail Property" means that certain portion of the Property allocated for retail and commercial use in accordance with Section 3.5 and comprised of Retail Property – Phase 1 and Retail Property – Phase 2 as defined below."

Exhibit A-1 attached to this Sixth Amendment illustrates the boundaries of the Retail Property – Phase 1 and Retail Property – Phase 2 and the Residential Property.

k. A new definition of "Retail Property – Phase 1" is added to the Agreement as follows:

> ""Retail Property – Phase 1" means specifically the real property described as such on Exhibit A-1 attached to the Sixth Amendment. As of the date hereof, the Retail Property- Phase 1 is contemplated to be the first phased Closing per the terms of Section 5.3."

l. A new definition of "Retail Property – Phase 2" is added to the Agreement as follows:

> ""Retail Property – Phase 2" means specifically the real property described on Exhibit A-1 attached to the Sixth Amendment. As of the date hereof, the Retail Property- Phase 2 is contemplated to be a future phased Closing per the terms of Paragraph 5.3(c)."

m. The definition of "Property" is hereby deleted in its entirety and replaced with the following:

> ""Property" means the real property described in Exhibit A of the Fifth Amendment and which shall be allocated into the Retail Property – Phase 1, the Retail Property – Phase 2 and the Residential Property as shown on Exhibit A-1 of the Sixth Amendment."

n. The definition of "Retail Property Purchase Price" is hereby deleted in its entirety and replaced with the following.

> ""Retail Property Purchase Price" means that purchase price for the Retail Property – Phase 2 only described in Section 5.1(c)."

3. Closing.

a. Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

"5.1 Purchase Price and Consideration for Conveyance. In furtherance of the Development Plan and the Urban Renewal Plan, the Parties have agreed upon various forms of incentives and financial assistance in accordance with and in furtherance of the Urban Renewal Plan, including conveyance of title to certain portions of the Property by Erie to the Developer. As such, in and for consideration of the commitment to the development of the Property conveyed to the Developer under this Agreement and the financial feasibility and success thereof, Erie and the Developer hereby agree that:

(a) Residential Property Purchase Price. The Residential Property Purchase Price shall be $2.00 per square foot, net of all public right-of-way dedications and park/open space dedications and buffers required for the Residential Property, as determined by the Parties in accordance with Section 3.5(a) and shown on the Survey. The Town, TOEURA and the Developer agree that the Residential Property Purchase Price equals $1,007,885, based on the estimated total area of 503,682 square feet. The Developer shall also pay Title Company costs and expenses payable at a Closing.

(b) Retail Property – Phase 1 Conveyance. Except for any Title Company costs and expenses payable at a Closing by the Developer as provided in this Agreement, no other consideration shall be due for any portion of the Retail Property – Phase 1 conveyed to the Developer under this Agreement pursuant to Section 5.3. Erie and the Developer agree that the value to the Developer of TOEURA's conveyance of the land to the Developer to facilitate implementation of the Urban Renewal Plan is $2,727,130, based on the agreed on price of $3.00 per square foot, estimated net total area of 867,971 square feet, and closing costs of 4.732% to be reflected in value of contribution."

(c) Retail Property – Phase 2 Purchase Price. The Retail Property Purchase Price for Retail Property – Phase 2 shall be, unless otherwise agreed by TOEURA, the Town and the Developer, $3.00 per square foot, net of all public right-of-way dedications and park/open space dedications and buffers, of the Retail Property – Phase 2, as determined by the Parties in accordance with Section 3.5(a) and shown on the Survey.

b. Section 5.2(c) of the Agreement is hereby deleted in its entirety and replaced with the following:

"(c) TOEURA and Town Approvals.

(i) The Parties' mutual vision and concepts for how the Property should be developed are described in Exhibit A-2 to this Sixth Amendment. The Developer will submit detailed project plans consistent with Exhibit A-2 to the Town pursuant to the Town's Unified Development Code ("Code") and any other applicable regulations. The Town will review such plans pursuant to the Code. The Developer may not materially deviate from the vision set forth in Exhibit A-2 without the express written approval of the Town and TOEURA.

(ii) With respect to the Retail Property – Phase 1 and the Residential Property, the Developer has submitted to TOEURA and TOEURA has approved a tax increment plan for the reimbursement of Eligible Costs from the Pledged Revenues authorized to be received by TOEURA pursuant to the Urban Renewal Plan that are generated by the development of the Retail Property – Phase 1 and the Residential Property (the "Tax Increment Plan"). The Parties agree that the total reimbursement of Eligible Costs from the Tax Increment Plan shall not exceed $10,800,000 (which represents the Developer's proposed public finance request of $13,527,130, less the $2,727,130 value of the conveyance of the land as set forth in Section 5.1(b)) (the "Tax Increment Cap"), which Tax Increment Cap shall, however, not apply to any Costs of Issuance (including Developer Advances for Costs of Issuance), Eligible Accrued Interest, capitalized interest, any debt service reserve fund or any surplus fund.

(iii) TOEURA hereby pledges the Pledged Revenues to the District for operations, maintenance obligations and administration of the District and for the debt service requirements of the Bonds to be issued by the District for all Eligible Costs, Costs of Issuance, Eligible Accrued Interest, capitalized interest, and any debt service reserve fund or any surplus funds. TOEURA further hereby covenants that until the date of payment in full of the Bonds, TOEURA will not pledge or encumber the Pledged Revenues hereunder, but shall maintain the same for the use and benefit of the District and, upon receipt, shall promptly pay the same to the District operations, maintenance obligations and administration of the District and for the debt service requirements of the Bonds to be issued by the District as herein provided. With respect to the Retail Property – Phase 2, on or before the date that is two (2) years after the last Closing associated with the Retail Property – Phase 1 and the Residential Property, the Developer may submit to TOEURA a proposal for the reimbursement of actual reimbursable project costs from tax increment financing and from a percent of incremental sales taxes as allowed by TOEURA that are generated by the development of the Retail Property – Phase 2 (the "Future Tax Increment Proposal").

(iv) The Future Tax Increment Proposal shall, if submitted, include any required feasibility studies, forecasts and projections, which shall be provided by and at the sole expense of the Developer and must be acceptable to TOEURA in TOEURA's reasonable discretion, and shall specifically include an analysis of the likelihood and timing of any development of the Retail Property – Phase 2 anticipated to support the generation of the tax increment financing. TOEURA shall consider the Future Tax Increment Proposal, and may, in its sole discretion, approve or deny the Future Tax Increment Proposal.

(v) In the event TOEURA elects to approve the Future Tax Increment Proposal, the Parties shall have until Closing of the Retail Property – Phase 2 to agree upon, and for the TOEURA Board to take action on, an agreement memorializing the terms of the Future Tax Increment Proposal.

(vi) If TOEURA and the Developer are unable to agree upon the form and substance of the Future Tax Increment Proposal on or before Closing for the Retail Property – Phase

2, then the Developer may, if the Developer is unable to develop the Retail Property – Phase 2 without such Future Tax Increment Proposal, terminate this Agreement as to the Retail Property – Phase 2 in accordance with Section 14. TOEURA and the Developer covenant and agree to use reasonable, good faith efforts to negotiate the final form of the Future Tax Increment Proposal."

c. A new Section 5.2(d) is added to the Agreement as follows:

"(d) Pledge. In order to further the implementation of the Development Plan, and in furtherance of the Urban Renewal Plan, TOEURA hereby agrees to pay to the Developer or District the Pledged Revenues. TOEURA hereby pledges such Pledged Revenues to the Developer or District, subject to the terms and provisions of this Agreement. Such revenues shall be paid to the Developer or District as soon as practicable after receipt thereof by TOEURA, but in any event within thirty (30) days of receipt thereof, provided that the Developer may direct TOEURA in writing to pay the Pledged Revenues to the District, a trustee of the Bonds or another entity or depository. TOEURA hereby elects to apply C.R.S. §11-57-208(2) to this Agreement. In accordance with C.R.S. §11-57-208(2) the Pledged Revenues pledged pursuant to this Agreement shall immediately be subject to the lien of such pledge without any physical delivery, filing or further act. The lien of such pledge and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities, except as may otherwise be provided herein. The lien of such pledge shall be valid, binding and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against TOEURA irrespective of whether such persons have notice of such liens. Further, TOEURA agrees that it shall not issue or incur bonds, notes or other obligations payable in whole or in part from, or constituting a lien upon the Pledged Revenues. If and to the extent required in connection with the issuance of the Bonds, the TOEURA will enter into a separate cooperation agreement or finance agreement with the District containing the terms outlined in this Agreement and all parties agree to provide the legal opinions necessary to complete the Bond transaction. Notwithstanding anything contained in this Agreement to the contrary, including, without limitation, any default or termination provisions, once Bonds have been issued by the District, neither the Town nor TOEURA shall have the right to terminate the pledge of revenues made under this Agreement, and in no event shall the Town or TOEURA have the right to compel or enjoin the issuance, payment, defeasance, refinancing, or refunding of any Bonds, or take any actions that would adversely impact the Bonds, or the payment of Pledged Revenues to the Developer or the District, as applicable."

d. A new Section 5.2(e) is added to the Agreement as follows:

(e) Ditch Relocation. In order to facilitate the orderly development of the Property, the Town and TOEURA hereby further agree that the Town will advance to TOEURA, and TOEURA will advance to the Developer, sufficient funds necessary to accomplish the relocation of the irrigation ditch located on the Property and owned by the South Boulder Canyon Ditch Company ("Ditch"), currently estimated at approximately $1.5 million ("Ditch Relocation

Advance"). In the event that the Closing occurs, the amount of the Ditch Relocation Advance shall be repaid by the Developer or District, to TOEURA on July 1, 2020, without interest. In the event that the Closing does not occur and this Agreement is terminated, TOEURA and the Town agree that if the Developer has completed the ditch relocation and provided to the Town and TOEURA full accounting of all costs associated with that work, the Ditch Relocation Advance expenditure benefits the Property and repayment will not be owed from the Developer to TOEURA except for any unexpended portion of the Ditch Relocation Advance that was not required to complete the ditch relocation. The Town and TOEURA agree to make draws on the Ditch Relocation Advance available to the Developer within 15 business days of the Developer's written notice, including invoiced costs, to the Town and TOEURA that the Developer is ready to commence the relocation work for the Ditch. In the event that Closing has not yet occurred at the time of Developer's notice pursuant to this Section, TOEURA also agrees that it will provide authorization for the Developer to enter onto the Property and perform the work necessary to relocate the Ditch in the form of a License and/or Construction Easement as applicable.

e. Section 5.3 of the Agreement is hereby deleted in its entirety and replaced with the following:

"5.3 Conveyance; Closing.

(a) Retail Property – Phase 1. Within thirty (30) days of notice from the Developer or the later of (i) the Town, TOEURA and the Developer completing all Inspection Period Contingencies and all Approvals Period Contingencies applicable to the Retail Property – Phase 1, and (ii) expiration of the Approvals Period, the Retail Property – Phase 1 shall be conveyed to the Developer by the Deed.

(b) Residential Property. Within thirty (30) days of notice from the Developer or the later of (i) the Town, TOEURA and the Developer completing all Inspection Period Contingencies and all Approvals Period Contingencies applicable to the Residential Property, (ii) expiration of the Approvals Period, and (iii) payment of the Residential Property Purchase Price, the Residential Property shall be conveyed to the Developer by the Deed.

(c) Retail Property – Phase 2. Within thirty (30) days of notice from the Developer or the later of (i) the Developer completing all Retail Property – Phase 2 Approvals Period Contingencies (as defined in the Sixth Amendment) applicable to the Retail Property – Phase 2, and (ii) expiration of the Retail Property – Phase 2 Approvals Period (as defined in the Sixth Amendment), the Retail Property – Phase 2 shall be conveyed to the Developer by the Deed.

(d) Separate Closings; Partial Closings. Based upon the timing of the satisfaction of the Contingencies and/or the timing of the Development Plan, the Retail Property, or portions thereof, and the Residential Property, or portions thereof, may be conveyed to the Developer simultaneously or separately, it being the intent of Erie and the Developer, for instance, to allow for the closing of the portion of the Retail Property for the Anchor Tenant separate from outparcels or pads of the Retail Property. At the time of the closing of the conveyance of each of the Retail Property, or portions thereof, and the

Residential Property, or portions thereof (each, a "Closing" and collectively the "Closings"), and subject to the terms, covenants and conditions of this Agreement, TOEURA shall convey to the Developer title by a Deed to each of the Retail Property, or portions thereof, and the Residential Property, or portions thereof. The Closings shall take place at the office of the Title Company, unless TOEURA and the Developer agree otherwise in writing. If and to the extent the Developer desires to phase the Closing of the Retail Property or the Residential Property as herein provided, the Developer shall provide notice to TOEURA of the applicable parcel of the Retail Property or Residential Property subject to an applicable Closing.

(e) Other Approvals. In order to facilitate the Closings as described herein, TOEURA and the Town agree to sign and record, within 5 business days after receipt and prior to the first Closing, the approved subdivision plat or plats, following review and approval by the Town, in and for the Property such that the Retail Property – Phase 1 and Residential Property may be conveyed to the Developer. Further, in order to accommodate the separate or partial Closings as described herein, TOEURA, the Town and the Developer agree to use reasonable best efforts to negotiate, enter into, and execute, prior to the first Closing, such temporary construction easements, access easements, and other necessary easements and license agreements as may be necessary for site work and other Improvements in good faith, including, without limitation, construction easements allowing for the grading of the entirety of the Property and any permanent access easements for the operation of the Retail Property – Phase 1 and Residential Property. TOEURA, the Town and the Developer agree to use reasonable best efforts to finalize all such agreements required prior to the first Closing no later than November 29, 2019. Developer shall provide initial drafts of such agreements for consideration by the Town and TOEURA.

4. Retail Property – Phase 2 Approvals Period. The Developer shall have two (2) years from the last Closing associated with the Retail Property – Phase 1 or the Residential Property (the "**Retail Property – Phase 2 Approvals Period**") to obtain all necessary Governmental Approvals from the Town for the use of the Retail Property – Phase 2. In the event that the Government Approvals have not been obtained during such two (2) year period, the Retail Property – Phase 2 Approvals Period shall automatically extend for an additional sixty (60) days. In addition to the conditions set forth above, prior to the expiration of the Retail Property – Phase 2 Approvals Period, each of the Town, TOEURA and the Developer, as applicable, shall satisfy the following contingencies (collectively, the "**Retail Property – Phase 2 Approvals Period Contingencies**"): (a) the Developer shall create and process all site plans, subdivision plats and construction/building permits with the Town; (b) the Town, without waiving any of its legislative, quasi-judicial, regulatory or decision-making authority agrees and covenants to reasonably cooperate in good faith with the Developer in such a manner as to not circumvent the terms of this Agreement; and (c) the Developer, as assisted by Developer's Broker, covenants and agrees to use good faith efforts to market the Retail Property – Phase 2 to attract quality retail and commercial tenants for the Retail Property – Phase 2. Prior to expiration of the Retail Property – Phase 2 Approvals Period, the Developer shall deliver written notice to Erie indicating that each of the Retail Property – Phase 2 Approvals Period Contingencies has been waived or satisfied. In the event that the Developer notifies TOEURA that it is unable to proceed with this transaction as to the Retail Property – Phase 2 due to a valid failure of any of the Retail Property – Phase 2 Approvals Period Contingencies, this Agreement shall terminate as to the Retail Property – Phase 2, and the Parties shall be relieved

of all further obligations and liability hereunder as to the Retail Property – Phase 2 (other than those that are expressly stated to survive the termination of this Agreement). In the event that the Developer fails to provide a notice as required herein in this Section, TOEURA shall provide the Developer with a written reminder notice and, if the Developer fails to provide a notice as required herein within ten (10) days, then this Agreement shall terminate as to the Retail Property – Phase 2, and the Parties shall be relieved of all further obligations and liability hereunder (other than those that are expressly stated to survive the termination of this Agreement).

5. Development Financing. Erie acknowledges and agrees that the Developer has satisfied the terms of Section 7.1 with respect to the Developer's Financing for the Development Plan.

6. Impositions and Construction of the Retail Property. Erie and the Developer acknowledge and agree that, with respect to the Retail Property, the Developer shall not be obligated to pay any fees other than as set forth on the Controlled Fee Schedule. Developer shall not be obligated to pay any increases in any such fees beyond that enumerated on the Controlled Fee Schedule. Notwithstanding anything contained in the Agreement to the contrary, the Parties agree to revise the Schedule of Performance with the respect to the Retail Property – Phase 2 concurrently with the first Closing associated with the Retail Property – Phase 2. Notwithstanding anything contained in the Agreement to the contrary, the Commencement of Construction and Completion of Construction of the Improvements required for the Retail Property – Phase 2 shall not impact the Retail Property – Phase 1 or the Residential Property.

7. Developer's Construction Obligations. Notwithstanding anything contained in the Agreement to the contrary, Erie acknowledges and agrees that the District may perform all or a portion of the Developer's obligations under Section 9 of the Agreement.

8. Assignment. Section 12.1(f) of the Agreement is amended to read as follows:

(f) assignment of its rights to the District, an Affiliate or an entity established by Developer for the closing, construction or financing of the Improvements, or

9. Controlled Fee Schedule. The Parties note that the execution version of the Agreement inadvertently omitted Exhibit E. As such, the Parties hereby agree that Exhibit B attached hereto shall constitute the Controlled Fee Schedule for all purposes under the Agreement.

10. Termination by TOEURA. Section 14.2 of the Agreement is hereby deleted and replaced with the following:

> "14.2 Termination by Erie. TOEURA shall have the right to terminate this Agreement with respect to the Retail Property – Phase 2 as set forth in Section 4 of the Sixth Amendment. TOEURA shall not have the right to terminate this Agreement otherwise."

11. Miscellaneous.

a. Full Force and Effect. Except as amended by this Sixth Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by the Parties. In the event of any conflict between the Agreement, the First Amendment, the Second

Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment and this Sixth Amendment, the terms and conditions of this Sixth Amendment shall control.

b. Successors and Assigns. This Sixth Amendment shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors and assigns.

c. Entire Agreement. This Sixth Amendment contains the entire agreement of the Parties with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by all Parties.

d. Power and Authority. The Parties have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Sixth Amendment.

e. Counterparts. This Sixth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f. Governing Law and Venue. This Sixth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado and venue for any legal action arising out of this Agreement shall be in Boulder County, Colorado.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Sixth Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2016, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Executive Vice President

TOWN OF ERIE, COLORADO

_____
Jennifer Carroll, Mayor

ATTEST:

_____
Jessica Koenig, Town Clerk

TOWN OF ERIE URBAN RENEWAL AUTHORITY
a Colorado urban renewal authority

By: _____
Name: Jennifer Carroll
Title: Madam Chair

EXHIBIT A-1

Depiction of the Retail Property – Phase 1, Retail Property – Phase 2 and the Residential Property

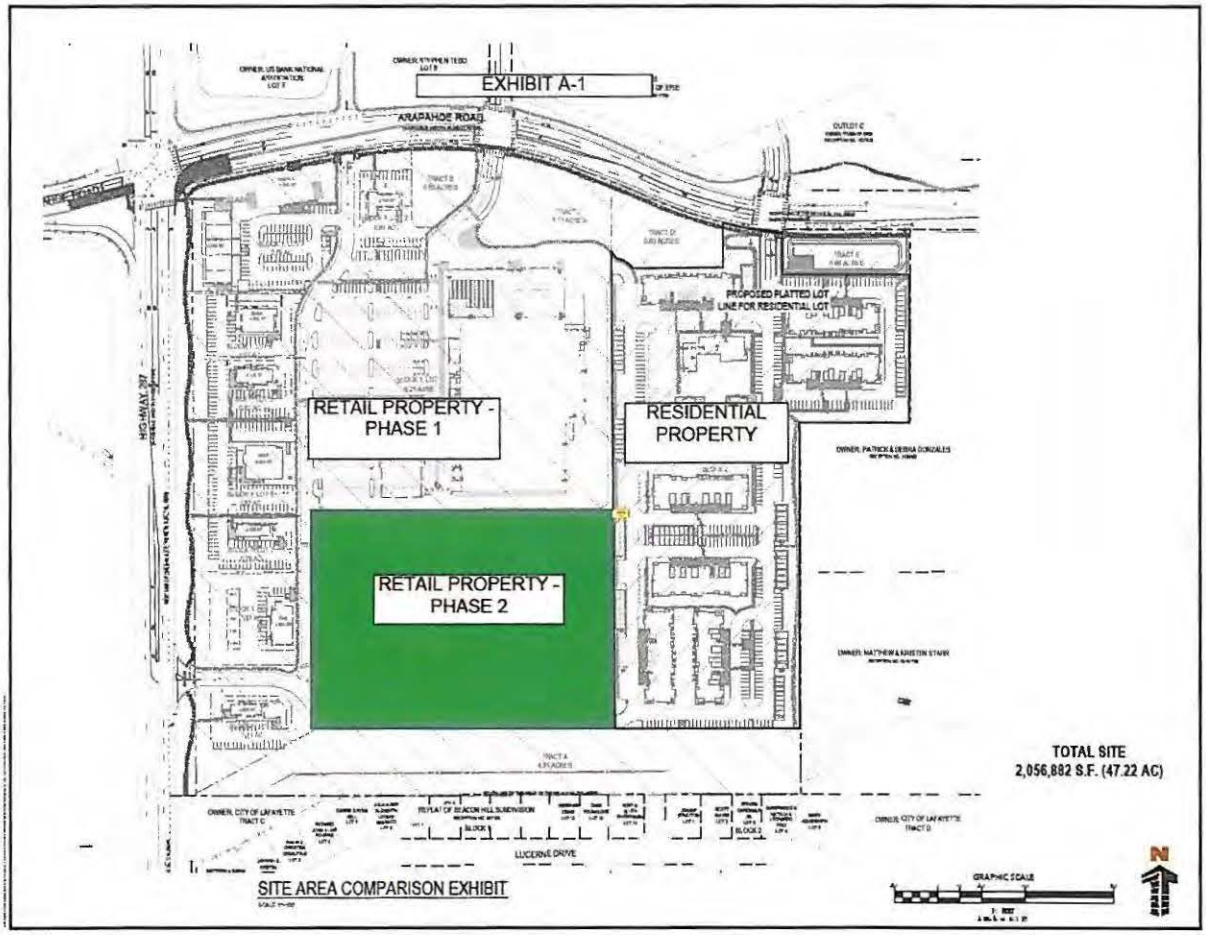


EXHIBIT A-2

Project Vision and Concept

Project Vision

Our vision for Nine Mile is a horizontally integrated, mixed-use **community** that combines neighborhood retail, restaurants and multifamily residential with intentional place-making and building architecture that is a modern interpretation of the Town of Erie's origins as a mining and agriculture town in the 19th-century West. Important to realizing this vision at Nine Mile are 1) securing a strong retail anchor and attracting a mix of local, regional and national restaurants and retailers, 2) integrating high-quality, yet affordable housing to create community, and 3) executing intentional planning, building and landscape architecture to create spaces that are inviting to pedestrians within and the community surrounding Nine Mile.

The forms and materials used in the Nine Mile building designs reflect the local materials and function of building elements found in that era. Gable and shed roof forms, structural knee bracing, and the selective use of metals, stone, masonry and board and batten siding are combined in the Nine Mile building architecture to evoke the imagery of turn-of-the-century Erie.

The complementary use of colors helps to personalize the scale of buildings. When color is used in combination with building forms, it can be used to great effect where people gather to enjoy the outdoors. The Nine Mile gathering space shall be framed by buildings, and when blended with outdoor lighting, outdoor seating, hardscape colors and materials, and landscape architecture it provides for a comfortable, engaging and vibrant entertainment and dining area for Erie neighborhoods and residents.

Design Concepts

Retail

Design Concepts
Residential

EXHIBIT B

CONTROLLED FEE SCHEDULE
(Reflecting 2016 Fee Rates)

BUILDING PERMIT FEES	Unit	Cost/Unit
Plan Review Fee	Percent of Building Fee	65% of Building Permit Fee
Demolition Permit	Flat Fee	$25.00
Building Permit Fee Based upon Valuation	**Total Valuation**	**Fee**
	$1 - $500	$23.50
	$501 to $2,000	$23.50 for the first $500.00 plus $3.05 for each additional $100.00, or fraction thereof, to and including $2,000.00
	$2,001.00 to $25,000.00	$69.25 for the first $2,000.00 plus $14.00 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
	$25,001.00 to $50,000.00	$391.25 for the first $25,000.00 plus $10.10 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
	$50,001.00 to $100,000.00	$643.75 for the first $50,000.00 plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
	$100,001.00 to $500,000.00	$993.75 for the first $100,000.00 plus $5.60 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
	$500,001.00 to $1,000,000.00	$3,233.75 for the first $500,000.00 plus $4.75 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
	$1,000,001.00 and up	$5,608.75 for the first $1,000,000.00 plus $3.15 for each additional $1,000.00, or fraction thereof
Town of Erie Use Tax	Percentage	3.5 percent of material costs or 50 percent of job valuation as determined by chief building official
Boulder Co. Open Space Use Tax	Percentage	0.65 percent of material costs or 50 percent of job evaluation as determined by chief building official

Electrical Permit Fee Based upon Total Valuation of Work	**Total Valuation**	**Fee**
	$0.00 to $300.00	$30.00
	$301.00 to $2,000.00	$35.00
	$2,001 to $50,000	$15.00 per thousand or fraction thereof of total valuation
	$50,001 to $500,000	$50.00 plus $14.00 per thousand or fraction thereof of total valuation
	$500,001.00 and up	$550.00 plus $13.00 per thousand or fraction thereof of total valuation
Plumbing Permit Fee Based upon Total Value of Work	**Total Valuation**	**Fee**
	$0.00 to $300.00	$45.00
	$301.00 to $2,000.00	$50.00
	$2,001.00 to $50,000.00	$18.00 per thousand or fraction thereof of total valuation
	$50,001.00 to $500,000.00	$50.00 plus $17.00 per thousand or fraction thereof of total valuation
	$500,001.00 and up	$550.00 plus $16.00 per thousand or fraction thereof of total valuation
Mechanical Permit Fee Based upon Total Value of Work	**Total Valuation**	**Fee**
	$0.00 to $300.00	$35.00
	$301.00 to $2,000.00	$45.00
	$2,001.00 to $50,000.00	$17.00 per thousand or fraction thereof of total valuation
	$50,001.00 to $500,000.00	$50.00 plus $16.00 per thousand or fraction thereof of total valuation
	$500,001.00 and up	$550.00 plus $15.00 per thousand or fraction thereof of total valuation
IMPACT FEES	**Unit**	**Cost/Unit**
Public Facilities Fee	$/1,000 s.f Total Building Area	$1,728.00
Storm Drainage Fee	NA	NA
Transportation Fee	$/1,000 s.f Total Bldg Area	$2,712.00
PUBLIC WORKS FEES		
Grading Permit	Flat Fee	$50.00
Permit to Work in Right-of-way	Flat Fee	$50.00

ZONING/ENTITLEMENT FEES		
PD-Zoning Amendment	Flat Fee	$500.00
Minor Subdivision Plat Fee (Planning and Engineering)	Flat Fee	$1,000 for Planning $1,000 for Engineering
Site Plan Fee	Based on Building Size	
	Greater than 10,000 s.f.	$1,000 for Planning $1,200 for Engineering
	Greater than 2,000 s.f. but Less than 10,000S.f.	$500 for Planning $500 for Engineering
	Less than 2,000 s.f.	$100 for Planning $100 for Engineering
WATER & SANITARY SEWER FEE/CHARGES	**Unit**	**Cost/Unit**
Water Tap & Meter Fee based upon Meter Size	¾ inch	$11,582.00
	1 inch	$19,303.00
	1½ inches	$38,607.00
	2 inches	$61,771.00
	3 inches	$115,820.00
	4 inches	$193,033.00
	6 inches	$386,067.00
Sanitary Sewer Tap based upon Water Tap Size	¾ inch	$5,200.00
	1 inch	$8,667.00
	1½ inches	$17,333.00
	2 inches	$27,733.00
	3 inches	$52,000.00
	4 inches	$86,667.00
	6 inches	$173,333.00
Raw Water Fee (Potable and Non-potable)	Per Acre Ft Required based upon Water Demand Calculation	$17,410.00/Ac.Ft.
Westside Sanitary Sewer Reimbursement Fee	Rate per single-family residential equivalent (SFRE)	$1,500.00/SFRE
NWRF Sanitary Sewer Reimbursement Fee	Rate per single-family residential equivalent (SFRE)	$410.00/SFRE
Stormwater Permit Fee	Rate per single-family residential equivalent (SFRE)	$6.60/SFRE

SEVENTH AMENDMENT TO THE
DISPOSITION AND DEVELOPMENT AGREEMENT

This Seventh Amendment to the Disposition and Development Agreement (this "**Seventh Amendment**") is made as of this 13th day of May, 2020 (the "**Effective Date**"), by and among the TOWN OF ERIE, a Colorado statutory municipality (the "**Town**"), the TOWN OF ERIE URBAN RENEWAL AUTHORITY, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and EVERGREEN-287 & ARAPAHOE, L.L.C., an Arizona limited liability company (the "**Developer**") (each a "**Party**" and collectively the "**Parties**").

RECITALS

WHEREAS, Erie and the Developer entered into that certain Disposition and Development Agreement dated March 22, 2016 (the "**Original Agreement**"), pursuant to which Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, Erie and the Developer entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 (the "**First Amendment**");

WHEREAS, Erie and the Developer entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 (the "**Second Amendment**");

WHEREAS, Erie and the Developer entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12th, 2017 (the "**Third Amendment**");

WHEREAS, Erie and the Developer entered into that certain Fourth Amendment to the Disposition and Development Agreement dated May 8th, 2018 (the "**Fourth Amendment**");

WHEREAS, Erie and the Developer entered into that certain Fifth Amendment to the Disposition and Development Agreement dated August 13, 2019 (the "**Fifth Amendment**");

WHEREAS, Erie and the Developer entered into that certain Sixth Amendment to the Disposition and Development Agreement dated October 22, 2019 (the "**Sixth Amendment**") (the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment and the Sixth Amendment, are hereinafter collectively referred to as the "**Agreement**");

WHEREAS, Erie and the Developer desire to further amend the Agreement pursuant to the terms of this Seventh Amendment.

NOW, THEREFORE, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Party covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used, but not defined herein shall have the same meaning as set forth in the Agreement.

2. Legal Descriptions. Notwithstanding anything contained in the Agreement to the contrary, Erie and Developer hereby agree that the legal descriptions of the Retail Property – Phase 1, Retail Property – Phase 2 and Residential Property shall be as follows, subject to change in nomenclature and possible addition of recording information as required by Title Company:

Retail Property – Phase 1:

Lots 1-9, inclusive, and Tracts A, B, C-1, C-2, D, E and F,
Nine Mile Corner
County of Boulder, State of Colorado

Retail Property – Phase 2:

Lot 10,
Nine Mile Corner
County of Boulder, State of Colorado

Residential Property:

Lot 11 and Tracts G and H,
Nine Mile Corner
County of Boulder, State of Colorado

As part of the Deed for the legal descriptions above, Erie shall provide a surface waiver for any owned minerals or oil and gas rights reasonably acceptable to the Title Company.

3. Definitions. Erie and Developer hereby agree that the definition of "Force Majeure" set forth in Section 1.1 of the Agreement is hereby amended to specifically include incidence of disease or other illness that reaches epidemic or pandemic proportions, including delays by the Anchor Tenant due to the COVID-19 pandemic and delays with the contemplated issuance of Bonds due to the COVID-19 pandemic.

4. Ditch Relocation. The second sentence of Section 5.2(e) of the Agreement is hereby deleted in its entirety and replaced with the following:

"In the event that Closing occurs, the amount of the Ditch Relocation Advance shall be repaid by the Developer or District to TOEURA on or before the date that is sixty (60) days after the Closing for the Retail Property – Phase 1 and the issuance of the Bonds, without

interest, but in no event shall the Ditch Relocation Advance be repaid later than 120 days after Closing for the Retail Property – Phase 1."."

5. Conveyance; Closing. Section 5.3(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

"(b) Residential Property. The Residential Property shall be conveyed to the Developer or its designated Affiliate by the Deed upon the payment of the Residential Property Purchase Price for Lot 11 on a date agreed upon by Developer and Erie, which date shall be on or before the date that is one hundred twenty (120) days after the Closing on the Retail Property – Phase 1, subject to Force Majeure."

6. Other Approvals. The phrase "no later than November 29, 2019" as the date for the finalization of the agreements as referenced in Section 5.3(e) of the Agreement is hereby deleted and replaced with the phrase "no later than the Closing on the Retail Property – Phase 1" for all purposes under the Agreement.

7. Closing Extensions. Erie and Developer hereby agree that Section 5.7 of the Agreement is hereby amended such that, in order to exercise such extensions, Developer shall deliver written notice to the Town and reasonable evidence of the need for such extension no less than five (5) days prior to the then-scheduled Closing, not thirty (30) days as originally set forth in the Agreement. Erie hereby agrees that Developer may exercise such applicable extensions to additionally accommodate the issuance of the Bonds and any Anchor Tenant delays.

8. Miscellaneous.

a. Full Force and Effect. Except as amended by this Seventh Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by the Parties. In the event of any conflict between the Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment and this Seventh Amendment, the terms and conditions of this Seventh Amendment shall control.

b. Successors and Assigns. This Seventh Amendment shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors and assigns.

c. Entire Agreement. This Seventh Amendment contains the entire agreement of the Parties with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by all Parties.

d. Power and Authority. The Parties have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Seventh Amendment.

e. Counterparts. This Seventh Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f. Governing Law and Venue. This Seventh Amendment shall be governed by and construed in accordance with the laws of the State of Colorado and venue for any legal action arising out of this Agreement shall be in Boulder County, Colorado.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Seventh Amendment to be duly executed as of the Effective Date.

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C.,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2019, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Executive Vice President

TOWN OF ERIE, COLORADO

_____
Jennifer Carroll, Mayor

ATTEST:

_____
Heidi Leatherwood, Town Clerk

TOWN OF ERIE URBAN RENEWAL AUTHORITY

_____
Jennifer Carroll, Chair

ATTEST:

_____

Heidi Leatherwood, Secretary

EIGHTH AMENDMENT TO THE
DISPOSITION AND DEVELOPMENT AGREEMENT

This Eighth Amendment to the Disposition and Development Agreement (this "**Eighth Amendment**") is made as of this 23rd day of Sept., 2020 (the "**Effective Date**"), by and among the TOWN OF ERIE, a Colorado statutory municipality (the "**Town**"), the TOWN OF ERIE URBAN RENEWAL AUTHORITY, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and EVERGREEN-287 & ARAPAHOE, L.L.C., an Arizona limited liability company (the "**Developer**") (each a "**Party**" and collectively the "**Parties**").

RECITALS

WHEREAS, the Parties entered into that certain Disposition and Development Agreement dated March 22, 2016 (the "**Original Agreement**"), pursuant to which Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

WHEREAS, the Parties entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 (the "**First Amendment**");

WHEREAS, the Parties entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 (the "**Second Amendment**");

WHEREAS, the Parties entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12th, 2017 (the "**Third Amendment**");

WHEREAS, the Parties entered into that certain Fourth Amendment to the Disposition and Development Agreement dated May 8th, 2018 (the "**Fourth Amendment**");

WHEREAS, the Parties entered into that certain Fifth Amendment to the Disposition and Development Agreement dated August 13, 2019 (the "**Fifth Amendment**");

WHEREAS, the Parties entered into that certain Sixth Amendment to the Disposition and Development Agreement dated October 22, 2019 (the "**Sixth Amendment**");

WHEREAS, the Parties entered into that certain Seventh Amendment to the Disposition and Development Agreement dated May 13, 2020 (the "**Seventh Amendment**") (the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment and the Seventh Amendment, are hereinafter collectively referred to as the "**Agreement**");

WHEREAS, the Parties desire to further amend the Agreement pursuant to the terms of this Eighth Amendment.

NOW, THEREFORE, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Party covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used, but not defined herein shall have the same meaning as set forth in the Agreement.

2. Definitions. The Parties hereby agree that the Tax Increment Cap as defined in the Sixth Amendment shall be increased to $12,800,000.

3. Miscellaneous.

a. Full Force and Effect. Except as amended by this Eighth Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by the Parties. In the event of any conflict between the Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment , the Seventh Amendment and this Eighth Amendment, the terms and conditions of this Eighth Amendment shall control.

b. Successors and Assigns. This Eighth Amendment shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors and assigns.

c. Entire Agreement. This Eighth Amendment contains the entire agreement of the Parties with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by all Parties.

d. Power and Authority. The Parties have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Eighth Amendment.

e. Counterparts. This Eighth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f. Governing Law and Venue. This Eighth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado and venue for any legal action arising out of this Agreement shall be in Boulder County, Colorado.

IN WITNESS WHEREOF, the Parties have caused this Eighth Amendment to be duly executed as of the Effective Date.

TOWN OF ERIE, COLORADO

Jennifer Carroll, Mayor

ATTEST:

Heidi Leatherwood, Town Clerk

TOWN OF ERIE URBAN RENEWAL AUTHORITY

Jennifer Carroll, Chair

ATTEST:

Heidi Leatherwood, Secretary

DEVELOPER:

EVERGREEN-287 & ARAPAHOE, L.L.C.,
an Arizona limited liability company

By: EVERGREEN DEVELOPMENT COMPANY-2019, L.L.C.,
an Arizona limited liability company
Its: Manager

By: EVERGREEN DEVCO, INC., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Executive Vice President

Ninth Amendment to the
Disposition and Development Agreement

This Ninth Amendment to the Disposition and Development Agreement (this "**Ninth Amendment**") is made as of this 16th day of September, 2021 (the "**Effective Date**"), by and among the Town of Erie, a Colorado statutory municipality (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**") (each a "**Party**" and collectively the "**Parties**").

Whereas, the Parties entered into that certain Disposition and Development Agreement dated March 22, 2016 (the "**Original Agreement**"), pursuant to which Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement; and

Whereas, the Parties entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 (the "**First Amendment**");

Whereas, the Parties entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 (the "**Second Amendment**");

Whereas, the Parties entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12th, 2017 (the "**Third Amendment**");

Whereas, the Parties entered into that certain Fourth Amendment to the Disposition and Development Agreement dated May 8th, 2018 (the "**Fourth Amendment**");

Whereas, the Parties entered into that certain Fifth Amendment to the Disposition and Development Agreement dated August 13, 2019 (the "**Fifth Amendment**");

Whereas, the Parties entered into that certain Sixth Amendment to the Disposition and Development Agreement dated October 22, 2019 (the "**Sixth Amendment**");

Whereas, the Parties entered into that certain Seventh Amendment to the Disposition and Development Agreement dated May 13, 2020 (the "**Seventh Amendment**");

Whereas, the Parties entered into that certain Eighth Amendment to the Disposition and Development Agreement dated September 30, 2020 (the "**Eighth Amendment**") (the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment and the Eighth Amendment, are hereinafter collectively referred to as the "**Agreement**");

Whereas, the Parties desire to further amend the Agreement pursuant to the terms of this Ninth Amendment.

Now, Therefore, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Party covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used, but not defined herein shall have the same meaning as set forth in the Agreement.

2. Controlled Fee Schedule. The Parties hereby acknowledge and agree that the Controlled Fee Schedule attached as Exhibit B to the Sixth Amendment contained a scrivener's error concerning the Boulder County Open Space Use Tax. The Parties hereby agree that the Boulder County Open Space Use Tax as listed on the Controlled Fee Schedule for all purposes under the Agreement shall be as follows:

> Percentage: 0.985 percent of material costs or percent of job evaluation as determined by chief building official

3. Miscellaneous.

a. Full Force and Effect. Except as amended by this Ninth Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by the Parties. In the event of any conflict between the Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment and this Ninth Amendment, the terms and conditions of this Ninth Amendment shall control.

b. Successors and Assigns. This Ninth Amendment shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors and assigns.

c. Entire Agreement. This Ninth Amendment contains the entire agreement of the Parties with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by all Parties.

d. Power and Authority. The Parties have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Ninth Amendment.

e. Counterparts. This Ninth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f. Governing Law and Venue. This Ninth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado and venue for any legal action arising out of this Agreement shall be in Boulder County, Colorado.

In Witness Whereof, the Parties have caused this Ninth Amendment to be duly executed as of the Effective Date.

Town of Erie, Colorado

Jennifer Carroll, Mayor

Attest:

Heidi Leatherwood, Town Clerk

Town of Erie Urban Renewal Authority

Jennifer Carroll, Chair

Attest:

Heidi Leatherwood, Town Clerk

Developer:

Evergreen-287 & Arapahoe, L.L.C.,
an Arizona limited liability company

By: Evergreen Development Company-2019, L.L.C.,
an Arizona limited liability company
Its: Manager

By: Evergreen Devco, Inc., a California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: Managing Principal

Tenth Amendment to the
Disposition and Development Agreement

This Tenth Amendment to the Disposition and Development Agreement (this "**Tenth Amendment**") is made as of this 26th day of March, 2024 (the "**Effective Date**"), by and among the Town of Erie, a Colorado home rule municipality (the "**Town**"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("**TOEURA**", and together with the Town, "**Erie**"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company (the "**Developer**") (each a "**Party**" and collectively the "**Parties**").

Recitals

Whereas, the Parties entered into that certain Disposition and Development Agreement dated March 22, 2016 (the "**Original Agreement**"), pursuant to which Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement;

Whereas, the Parties entered into that certain First Amendment to the Disposition and Development Agreement dated December 13, 2016 (the "**First Amendment**");

Whereas, the Parties entered into that certain Second Amendment to the Disposition and Development Agreement dated May 1, 2017 (the "**Second Amendment**");

Whereas, the Parties entered into that certain Third Amendment to the Disposition and Development Agreement dated December 12, 2017 (the "**Third Amendment**");

Whereas, the Parties entered into that certain Fourth Amendment to the Disposition and Development Agreement dated May 8, 2018 (the "**Fourth Amendment**");

Whereas, the Parties entered into that certain Fifth Amendment to the Disposition and Development Agreement dated August 13, 2019 (the "**Fifth Amendment**");

Whereas, the Parties entered into that certain Sixth Amendment to the Disposition and Development Agreement dated October 22, 2019 (the "**Sixth Amendment**");

Whereas, the Parties entered into that certain Seventh Amendment to the Disposition and Development Agreement dated May 13, 2020 (the "**Seventh Amendment**");

Whereas, the Parties entered into that certain Eighth Amendment to the Disposition and Development Agreement dated September 23, 2020 (the "**Eighth Amendment**");

Whereas, the Parties entered into that certain Ninth Amendment to the Disposition and Development Agreement dated September 16, 2021 (the "**Ninth Amendment**") ((the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment the Seventh Amendment, the Eighth Amendment and the Ninth Amendment are hereinafter collectively referred to as the "**Agreement**"); and

Whereas, the Parties desire to further amend the Agreement pursuant to the terms of this Tenth Amendment.

Now, Therefore, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Party covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used, but not defined herein shall have the same meaning as set forth in the Agreement.

2. Controlled Fee Schedule. The Parties hereby acknowledge and agree that the Controlled Fee Schedule attached as Exhibit B to the Sixth Amendment, and further amended by the Ninth Amendment, shall be further amended as set forth herein. The Parties hereby agree that the Boulder County Open Space Use Tax as listed on the Controlled Fee Schedule for all purposes under this Agreement shall be as follows:

> Percentage: ~~0.985~~ ***That*** percent of material costs or percent of job evaluation as determined by chief building official ***based on the Boulder County Open Space Use Tax, as the same may be amended from time to time.***

3. Miscellaneous.

a. Full Force and Effect. Except as amended by this Tenth Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by the Parties. In the event of any conflict between the Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Ninth Amendment and this Tenth Amendment, the terms and conditions of this Tenth Amendment shall control.

b. Successors and Assigns. This Tenth Amendment shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors and assigns.

c. Entire Agreement. This Tenth Amendment contains the entire agreement of the Parties with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by all Parties.

d. Power and Authority. The Parties have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Tenth Amendment.

e. Counterparts. This Tenth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f. Governing Law and Venue. This Tenth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado and venue for any legal action arising out of this Agreement shall be in Boulder County, Colorado.

In Witness Whereof, , the Parties have caused this Tenth Amendment to be duly executed as of the Effective Date.

Town of Erie, Colorado

Justin Brooks, Mayor

ATTEST:

Deputy ~~Debbie Stamp~~, Town Clerk
Michele Crawford

Town of Erie Urban Renewal Authority

Justin Brooks, Chair

Attest:

~~Debbie Stamp~~, Secretary
Michele Crawford,

Developer:

Evergreen-287 & Arapahoe, L.L.C.,
an Arizona limited liability company

By: Evergreen Development Company-2019, L.L.C.,
an Arizona limited liability company
Its: Manager

By: Evergreen Devco, Inc., a
California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: CEO

Town of Erie Urban Renewal Authority
Resolution No. 25-026

A Resolution of the Board of Commissioners of the Town of Erie Urban Renewal Authority Approving the Eleventh Amendment to the Disposition and Development Agreement with the Town of Erie and Evergreen-287 & Arapahoe, LLC

Whereas, on March 22, 2016, the Authority and Evergreen-287 & Arapahoe, LLC entered into a Disposition and Development Agreement; and

Whereas, the Authority and Evergreen-287 & Arapahoe, LLC amended the Agreement on December 13, 2016, May 1, 2017, December 12, 2017, May 8, 2018, August 13, 2019, October 22, 2019, May 13, 2020, September 23, 2020, and September 16, 2021, and March 26, 2024 and wish to amend the Agreement again.

Now Therefore be it Resolved by the Board of Commissioners of the Town of Erie Urban Renewal Authority that:

Section 1. The Eleventh Amendment to the Disposition and Development Agreement with Evergreen-287 & Arapahoe, LLC is hereby approved in substantially the form attached hereto, subject to approval by the Authority's General Counsel. Upon such approval, the Chair is authorized to execute the Eleventh Amendment on behalf of the Authority.

Adopted this 22nd day of April, 2025.

Andrew J. Moore, Chair

Attest:

Debbie Stamp, Town Clerk

TOWN OF ERIE CORPORATE SEAL COLORADO URBAN RENEWAL AUTHORITY

Eleventh Amendment to the Disposition and Development Agreement
(Nine Mile)

This Eleventh Amendment to the Disposition and Development Agreement (this "Eleventh Amendment") is made as of this 22nd day of April, 2025 (the "Effective Date"), by and among the Town of Erie, a Colorado home rule municipality (the "Town"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority ("TOEURA"), and Evergreen-287 & Arapahoe, L.L.C., an Arizona limited liability company ("Developer") (each a "Party" and collectively the "Parties").

Whereas, the Parties entered into a Disposition and Development Agreement dated March 22, 2016 (the "Original Agreement"), pursuant to which Developer agreed to acquire and develop certain real property located in the Town of Erie, Colorado, as more particularly described in the Agreement;

Whereas, the Parties entered into a First Amendment to the Disposition and Development Agreement dated December 13, 2016 (the "First Amendment");

Whereas, the Parties entered a Second Amendment to the Disposition and Development Agreement dated May 1, 2017 (the "Second Amendment");

Whereas, the Parties entered into a Third Amendment to the Disposition and Development Agreement dated December 12, 2017 (the "Third Amendment");

Whereas, the Parties entered into a Fourth Amendment to the Disposition and Development Agreement dated May 8, 2018 (the "Fourth Amendment");

Whereas, the Parties entered into a Fifth Amendment to the Disposition and Development Agreement dated August 13, 2019 (the "Fifth Amendment");

Whereas, the Parties entered into a Sixth Amendment to the Disposition and Development Agreement dated October 22, 2019 (the "Sixth Amendment");

Whereas, the Parties entered into a Seventh Amendment to the Disposition and Development Agreement dated May 13, 2020 (the "Seventh Amendment");

Whereas, the Parties entered into an Eighth Amendment to the Disposition and Development Agreement dated September 23, 2020 (the "Eighth Amendment");

Whereas, the Parties entered into that Ninth Amendment to the Disposition and Development Agreement dated September 16, 2021 (the "Ninth Amendment") ;

Whereas, the Parties entered into a Tenth Amendment to the Disposition and Development Agreement dated March 26, 2024 (the "Tenth Amendment") (the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh

Amendment, the Eighth Amendment, the Ninth Amendment, and the Tenth Amendment, are hereinafter collectively referred to as the "Agreement"); and

Whereas, the Parties desire to further amend the Agreement pursuant to the terms of this Eleventh Amendment.

Now, Therefore, in consideration of the mutual obligations of the Parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Party covenants and agrees with the other as follows:

1. Capitalized Terms. Capitalized terms used, but not defined herein shall have the same meaning as set forth in the Agreement.

2. Definitions.

A. The Parties hereby agree that the Tax Increment Cap as defined in the Eighth Amendment shall be increased to $13,200,000.

B. The Parties further agree that the definition of "Pledged Property Tax Increment Revenue" as defined in the Sixth Amendment is amended to read as follows:

> "Pledged Property Tax Increment Revenue" means all incremental property tax revenues received by TOEURA generated within the Urban Renewal Plan boundary, net of any offsets retained by the County Treasurer for return of overpayments or as reserve funds as permitted by C.R.S. § 31-25-107(9)(a)(III) and (b), and less that Authority Administrative Fee equal to one percent (1%) of the incremental property tax revenues received by TOEURA generated within the Urban Renewal Plan boundary, which Administrative Fee shall be retained by TOEURA to pay the reasonable and customary administrative costs of TOEURA incurred in connection with TOEURA's obligations under this Agreement, including without limitation the collection, enforcement, disbursement, and administrative fees and costs related to administration of this Agreement. The Administrative Fee shall be deducted annually from the incremental property tax revenues received by the TOEURA."

3. Miscellaneous.

a. *Full Force and Effect*. Except as amended by this Eleventh Amendment, the Agreement as modified herein remains in full force and effect and is hereby ratified by the Parties. In the event of any conflict between the Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Ninth Amendment, the Tenth Amendment, and this Eleventh Amendment, the terms and conditions of this Eleventh Amendment shall control.

b. *Successors and Assigns*. This Eleventh Amendment shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors and assigns.

c. *Entire Agreement*. This Eleventh Amendment contains the entire agreement of the Parties with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by all Parties.

d. *Power and Authority*. The Parties have not assigned or transferred any interest in the Agreement and have full power and authority to execute this Eleventh Amendment.

e. *Counterparts*. This Eleventh Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signatures transmitted by facsimile or electronically shall be binding as if they were original signatures.

f. *Governing Law and Venue*. This Eleventh Amendment shall be governed by and construed in accordance with the laws of the State of Colorado and venue for any legal action arising out of this Agreement shall be in Boulder County, Colorado.

In Witness Whereof, the Parties have caused this Eleventh Amendment to be duly executed as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Town of Erie Urban Renewal Authority

Andrew J. Moore, Chair

Attest:

Debbie Stamp, Town Clerk

Developer

Evergreen-287 & Arapahoe, L.L.C.,
an Arizona limited liability company

By: Evergreen Development Company-2019, L.L.C.,
an Arizona limited liability company
Its: Manager

By: Evergreen Devco, Inc., a
California corporation
Its: Manager

By: _____
Name: Tyler Carlson
Its: CEO & Managing Principal

645 Holbrook Street
Erie, CO 80516

TOWN OF ERIE

Urban Renewal Authority

Board Meeting Date: 10/14/2025

File #: 25-571, **Version:** 1

SUBJECT:
Executive session to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a); to hold a conference with the Authority's General Counsel to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e); all regarding a potential urban renewal development in Old Town Erie.

DEPARTMENT: Administrative Operations

PRESENTER(S):

TIME ESTIMATE: 30 minutes
For time estimate: please put 0 for Consent items.

FISCAL SUMMARY:
NA

POLICY ISSUES:
NA

STAFF RECOMMENDATION:
NA

SUMMARY/KEY POINTS
NA

BACKGROUND OF SUBJECT MATTER:
NA