

## **First Amendment To Development Agreement** **(Morgan Hill Filing 2)**

This First Amendment to Development Agreement (the "First Amendment") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and CDG Morgan Hill, Inc., a Colorado corporation with a principal place of business at 2500 Arapahoe Avenue, Suite 220, Boulder, CO 80302 ("Developer") (each a "Party" and collectively the "Parties").

Whereas, on November 17, 2020, the Town and Developer entered into the Morgan Hill Filing 2 Development Agreement, recorded at Reception No. 4651768 ("The Agreement").

Whereas the Town and Developer wish to amend the Agreement by the addition of a new Section 6.A.

Now Therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Section 6 of the Agreement is hereby replaced in its entirety with the following:

6. Phasing. The Development shall be constructed in three phases in accordance with **Exhibit C**, attached hereto and incorporated herein by this reference. The following limitations shall apply to the Phasing Plan:

a. Prior to the issuance of any building permits for each Phase, all of the following Improvements shall be installed and shall have received preliminary approval from the Town for that Phase, which requires a finding by the Town Engineer that such Improvements are safe to be used during construction: streets, street signage; water; wastewater; drainage facilities; and streetlights, provided that such streetlights may be temporary at the time of issuance of building permits for that Phase, but must be permanent prior to issuance of any certificates of occupancy for that Phase.

b. Prior to issuance of any building permits for any residential dwelling units in Phase 1A, the following Improvements shall have received Initial Acceptance: Metcalf Court, Myron Court, Meagan Way south of the north border of Montclair Avenue, Montclair Avenue east of Meagan Way, Metcalf Drive, and Mora Place. A water line loop in Montclair Avenue and Merrill Drive shall also be active.

c. Prior to issuance of any building permits for any residential dwelling units in Phase 1B, the following Improvements shall have received Initial Acceptance: Meagan Way, Miranda Road, Maddox Lane, and Montclair Ave. from County Road 3 to 110' west of Miranda Road. A water line loop in Montclair Avenue, Merrill Drive and Metcalf Drive shall also be active. The balance of Montclair Ave and Merrill Drive to Morgan Circle North may be all weather surface until issuance of building permits in Phase 2.

d. Prior to issuance of any building permits for any residential dwelling units in Phase 2, the following Improvements shall have received Initial Acceptance: Paving of Montclair Ave. and Merrill Drive, and all Improvements in Merrill Circle E, Merrill Circle W.,

Melinda Place, Marlow Circle E., Marlow Circle W., and Morgan Drive.

e. Area Grading Plans, as defined in the Standards, shall be provided to the Town for review and acceptance prior to issuance of building permits in any Phase.

2. The Agreement is amended by the addition of a new **Exhibit C**, in the form attached hereto.

3. Except as expressly modified herein, the Agreement shall remain in full force and effect.

In Witness Whereof, the Parties have executed this First Amendment as of the Effective Date.

**Town of Erie, Colorado**

\_\_\_\_\_  
Jennifer Carroll, Mayor

Attest:

\_\_\_\_\_  
Heidi Leatherwood, Town Clerk

**Developer**

  
\_\_\_\_\_  
Steve Rane, Authorized Representative  
of CDG Morgan Hill, Inc.

State of Colorado            )  
  ) ss.  
County of Boulder            )

20th The foregoing instrument was subscribed, sworn to, and acknowledged before me this day of September 2021, by Jon Lee as the Authorized Representative of CDG Morgan Hill, Inc.

My Commission Expires:

(Seal)

  
\_\_\_\_\_



