



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Town Council

Board Meeting Date: 5/12/2020

File #: 20-240, Version: 1

SUBJECT: Consent Agenda

A Resolution of the Board of Trustees of the Town of Erie Approving the Seventh Amendment to the Disposition and Development Agreement for the Nine Mile Project

DEPARTMENT: Administration

PRESENTER: Malcolm Fleming, Town Administration

STAFF RECOMMENDATION:

Approve the Resolution

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The 7th Amendment of the Disposition and Development Agreement is with Evergreen Development and the TOEURA for the 287 - Arapahoe "Nine Mile" site. The key provisions in this 7th Amendment include:

- Establishing the final legal descriptions for the various phases of Nine Mile based on the approved plat.
- Clarifying that Force Majeure in the DDA includes COVID-19, since global health pandemics aren't explicitly covered, although the current situation is covered implicitly through the existing government order language.
- Providing that repayment of the Ditch Relocation Advance be tied to Phase I-Retail closing instead of a fixed date.
- Providing that Residential Property closing be tied to Phase I-Retail closing instead of a fixed date.
- Shortening the notice period for the Phase I-Retail closing to 5 days from 30 days, due to the rapidly changing economic environment.
- Clarifying that two 180-day extension rights in the original DDA (Section 5.7) can be exercised due to Anchor Tenant or Bond issues.

These provisions are based on the Developer's request due to the COVID-19 crisis and its ensuing challenges.

Evergreen initially presented to the Board of Trustees regarding Nine Mile on October 20, 2015. The meeting video from October 20, 2015 can be view at:

https://erie.granicus.com/player/clip/1424?view_id=18

ATTACHMENTS:

1. Resolution
2. Seventh Amendment to the Disposition and Development Agreement