Restated Disposition and Development Agreement
(Erie Town Center)

This Restated Disposition and Development Agreement (the "Agreement") is made and entered into as of _____, 2025 (the "Effective Date"), by and among the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority with an address of P.O. Box 750, Erie, CO 80516 ("TOEURA"), and Evergreen-County Line & Erie Parkway, L.L.C., an Arizona limited liability company with an address of 1873 South Bellaire Street, Suite 1200, Denver, CO 80222 (Attention: Tyler Carlson) ("Developer") (each a "Party" and collectively the "Parties").

Whereas, on October 8, 2024, Developer and the Town entered into a Disposition and Development Agreement which the Parties subsequently amended on February 11, 2025, May 13, 2025, and August 12, 2025 (collectively, the "Original DDA");

Whereas, Developer and the Town desire to repeal the Original DDA to restate it as set forth herein;

Whereas, the Town owns that certain real property more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property");

Whereas, the Town and TOEURA desire that the Property be developed as part of the Erie Town Center Planned Development (the "Development"); and

Whereas, the Town intends to convey the Property to Developer and Developer desires to develop the Property for commercial uses in accordance with this Agreement.

Now, therefore, in consideration of the covenants and obligations contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties amend and restate the Original DDA with this Agreement superseding and replacing the Original DDA in all respects, as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions and fees to be paid by Developer in connection with the Development, and to establish the terms under which the Town will convey the Property to Developer, and TOEURA will finance a portion of the Development. The Development will be subject to all applicable requirements of the Erie Municipal Code (the "Code"), state law, and other Town ordinances.

2. Repeal. The Original DDA is hereby repealed in its entirety.

3. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

"Affiliate" means a person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with Developer. For purposes of this definition, "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 Grocer" means a smaller format, specialty grocer with not less than 8,000 square feet of building area and not more than 45,000 square feet of building area.

"Eligible Public Improvements" means the improvements required to facilitate the development of the Property as more particularly described in **Exhibit B**, attached hereto and incorporated herein, and in accordance with the Colorado Urban Renewal Law, C.R.S. § 31-25-101, *et seq*.

"Overall Plan" means the development plan developed by the Town and Developer for the Development as more particularly described in **Exhibit C**, attached hereto and incorporated herein.

4. Mine Mitigation.

a. *Reports*. Developer acknowledges that the Town conducted a Phase I and Phase II coal mine subsidence evaluation with Lithos Engineering in March 2022 and May 2022, both of which studied historic coal mining of the Property. Developer further acknowledges that the Property is undermined by multiple Boulder-Weld County Coal Field mines, including the Garfield No. 1, Garfield No. 2 and Lister mines, with coal mining occurring from the late 1800s to the early 1900s, and the Phase II report concluded that conditions found do not preclude development of the Property, but that structure-specific investigations should be conducted over undermined zones to determine appropriate structural investigations that are required for all new development, which must be, unless otherwise agreed upon by the Town and Developer, submitted to the Colorado Geological Survey prior to the issuance of any building permits. If the Town terminates this Agreement, as provided herein, before Developer commences construction, then the Town will reimburse Developer $23,500 for its out-of-pocket expenses related to the geotechnical investigations.

b. *Subsidence Mitigation; Costs*. The Town shall continue to investigate the undermining of the Property by multiple Boulder-Weld County Coal Field mines, including the Garfield No. 1, Garfield No. 2 and Lister mines, with coal mining occurring from the late 1800s to the early 1900s, and the structure-specific mitigation that is required for Developer's construction of the Development in, under, and over undermined zones (collectively, the "Subsidence Mitigation"). The Town, at its sole cost and expense and prior to the expiration of the Approvals Period, shall perform, in a good and workmanlike manner and in compliance with the Town's engineer specifications, the Subsidence Mitigation and shall secure all necessary approvals required for Developer to construct the Eligible Public Improvements and all buildings delineated in the Approvals.

c. *Warranty*. The Town shall assign, for the benefit of Developer, a two-year warranty from the Town's selected Subsidence Mitigation contractor, commencing on the date of the Town's issuance of a notice of substantial completion for the Subsidence Mitigation.

5. Approvals Period.

a. *Time*. Developer shall have until December 31, 2026 (the "Approvals Period") to obtain all necessary approvals from the Town and any other governmental or quasi-governmental entities having jurisdiction (the "Approvals"), with conditions reasonably acceptable to Developer, necessary for the construction and use of the Development. The Town shall permit Developer and its representatives to access the Property at reasonable times for the purpose of obtaining the Approvals, provided that Developer reasonably restores the Property to the same condition as prior to any such entry as is commercially reasonable, ordinary wear and tear excepted.

b. *Contingencies*. Prior to the expiration of the Approvals Period, the following contingencies (collectively, the "Approval Contingencies") shall be satisfied:

i. Developer shall secure a binding commitment with the Anchor Grocer, which binding commitment shall include a commercially reasonable construction schedule indicating when the Anchor Grocer will open for business.

ii. Developer shall obtain all necessary entitlements for the Development, including approval of the final plat(s) and site plan(s) and all construction/building permits. The Town, without waiving any of its legislative, regulatory, and decision-making authority, agrees and covenants to reasonably cooperate in good faith with Developer in such a manner as to not circumvent the terms of this Agreement.

iii. The Town, at its sole cost and expense, shall have completed, in a good and workmanlike manner and in compliance with laws and any regulations or rules of the Colorado Geological Survey ("CGS"), the Subsidence Mitigation and the Town shall have secured all CGS and other approvals required for Developer to construct the Eligible Public Improvements and all buildings delineated in the Approvals and assigned the warranty for the Subsidence Mitigation to Developer.

c. *Marketing*. During the Approvals Period, Developer shall market the Property to attract quality retail and commercial tenants for the Property.

d. *Notice*. Prior to expiration of the Approvals Period, Developer shall deliver written notice to the Town and TOEURA indicating whether each of the Approval Contingencies has been satisfied. If such notice states that any of the Approval Contingencies have not been satisfied, the Town, TOEURA, or Developer may elect to terminate this Agreement by giving written notice to all Parties within 10 days. If Developer does not deliver notice before the end of the Approvals Period, Developer waives its right to terminate this Agreement based on the Approval Contingencies.

6. Colorado Open Records Act. Any confidential financial information provided to the Town under this Agreement shall be marked as confidential financial information, and if so appropriately marked, the Town shall treat the information as confidential financial information under the Colorado Open Records Act, C.R.S § 24-72-200.1, *et seq*. ("CORA").

7. Site-Specific Development Agreements. The Parties agree that there will be one Final Plat and one development agreement for the Development. Developer shall execute such development agreement with the Town in the Town's standard form, provided that Developer may issue (a) a performance bond in lieu of a letter of credit, as surety for the Eligible Public Improvements, and (b) warranty bonds for any warranty periods for the Eligible Public Improvements, as more particularly described in the development agreement.

8. Financing Mechanisms.

a. *Urban Renewal*. The Property is a part of an urban renewal plan as created by TOEURA pursuant to the Colorado Urban Renewal Law, C.R.S. § 31-25-101, *et seq*. Notwithstanding anything contained herein to the contrary, the Town or TOEURA either have funded or will fund all costs associated with establishing such urban renewal plan without reimbursement from Developer.

b. *Developer Improvements*. Developer shall be responsible for the costs of designing and constructing the improvements required for the Development in accordance with the development agreement except that the Town and TOEURA shall be responsible for financing the costs of the Eligible Public Improvements as stated herein.

c. *TOEURA Reimbursement*. TOEURA agrees to submit a resolution for the TOEURA Board to consider issuance of a bond or similar financing mechanism to support reimbursement of the Eligible Public Improvements designed and constructed by Developer (the "Bond"). The Bond shall be issued subject to an analysis of the expected tax increment financing revenues to be generated by the Property to sufficiently repay the Bond. Upon issuance of the Bond, TOEURA shall begin to reimburse Developer for Eligible Public Improvements monthly upon receipt from Developer of a third-party engineer's certification of the Eligible Public Improvements costs and a detailed invoice describing each Eligible Public Improvement incurred subject to reimbursement (each a "Payment Request"). TOEURA shall pay Developer the amount of each Payment Request within 30 days following receipt thereof. If TOEURA fails to pay any Payment Request within the applicable time period, Developer shall have all rights and remedies at law or in equity to enforce collection of the Payment Request. To the extent any Payment Request is not paid when due and such failure by TOEURA to so pay causes Developer to incur interest, penalties and/or late charges with the contractors performing the Eligible Public Improvements, then TOEURA shall be responsible for all such late charges, penalties and interest.

d. *Town Bond Obligation*. Upon approval by the TOEURA Board, the Town agrees to submit a resolution for the Town Council to consider providing a moral obligation of the Town to repay the Bond. If TOEURA does not issue the Bond, then the Town, in its sole discretion, may elect to issue Certificates of Participation to reimburse Developer subject to the same reimbursement requirements in Section 8(d) hereof. For avoidance of doubt, the Town and TOEURA shall be responsible for determining the appropriate finance mechanisms to pay for the Eligible Public Improvements and shall pledge property and sales taxes as stated in the Tax Increment Revenue Agreement approved by the Town and TOEURA, as amended. Tax increment financing revenues generated by any future phase not included in this Development shall not be pledged to the repayment of the Bond.

e. *Town Reimbursement*. Subject to Section 19.i hereof, if the Eligible Public Improvements are not fully reimbursed by the Bond proceeds, then the Town shall reimburse Developer an amount not to exceed $2,500,000 for any unreimbursed Eligible Public Improvements, to be paid monthly upon the same terms and conditions applicable to a Payment Request. Such reimbursement shall only occur after the Bond proceeds are fully disbursed.

f. *Maximum Reimbursement*. In no case shall the total amount of reimbursement from all financing sources collectively provided by the Town and TOEURA for Eligible Public Improvements exceed $21,300,000.

g. *PIF.* Once Developer is an owner of the Property, Developer shall execute and record a customary 1% sales tax public improvement fee ("PIF") on all sales of goods occurring on the Property, and a 3% services PIF on the provision of services (excluding medical and financial services) occurring on the Property (collectively, the "PIF Covenants"). The Town and TOEURA shall have the right to reasonably review and approve the PIF Covenants. Developer pledges to TOEURA all revenue from the PIF Covenants for the payment of the principal of, the interest on, and any premium due in connection with the redemption of the Bond. TOEURA shall be responsible for administering the PIF Covenants and accounting and collecting the revenue pursuant to the PIF Covenants. TOEURA pledges all revenue received from the PIF Covenants for the Development and the Bond. Upon repayment of the Bond, construction of all Eligible Public Improvements, and expiration of the tax increment financing for Town Center Phase 1 as more particularly described in the Tax Increment Revenue Agreement approved by the Town and TOEURA, Developer shall, upon written request of the Town, remove the PIF Covenants from the Property.

h. *District*. Developer may form one or more metropolitan districts (collectively the "District") for the purpose of providing financing or other assistance for the Development. Notwithstanding anything contained in this Agreement to the contrary, any obligation of Developer under this Agreement may be performed by or on behalf of the District, provided that the District agrees to be bound by this Agreement for any obligations that it undertakes on behalf of Developer.

9. Purchase Price. Except for any title company costs and expenses payable at closing by Developer as provided in this Agreement, no other consideration shall be due to the Town for conveyance of the Property to Developer pursuant to the terms of this Agreement.

10. Closing.

a. *Conditions Precedent*. The obligation of the Town and Developer to close on the transfer of the Property under this Agreement shall be subject to and conditioned upon the following conditions precedent:

i. The Town's approval of an amendment to the Town Center Planned Development ("PD");

ii. Satisfaction of the Approval Contingencies; and

iii. The Town's and TOEURA's demonstration to Developer with evidence reasonably satisfactory to Developer that the Town and TOEURA have all necessary funds to pay for the Eligible Public Improvements as and when required by this Agreement.

b. *Conveyance*. At closing, the Town shall convey to Developer title to the Property by special warranty deed. Title to the Property shall be free and clear of all liens, defects and encumbrances, except the following permitted exceptions: this Agreement; all agreements and easements executed and recorded against the Property prior to the Effective Date; easements and rights-of-way that are part of the Development Plan, or are approved, accepted, or waived by Developer; and taxes and assessments not yet due and payable. The closing shall be 30 days after the expiration of the Approvals Period unless the Parties mutually agree to an extension in writing.

c. *Title Insurance*. Developer shall be responsible for all costs of the Title Policy and any title insurance commitments, policies or endorsements required by Developer or its mortgagees.

d. *Extensions*. Developer may, at its option, extend any closing for up to 2 periods of up to 120 days each if such extensions are necessary to accommodate the Anchor Grocer's construction schedule. To exercise such an extension, Developer shall deliver written notice to the Town and evidence of such Anchor Grocer's construction schedule no less than 30 days prior to the then scheduled closing.

e. *Condition of Property*. Except for the obligations of the Town and TOEURA as set forth in this Agreement, including, without limitation, the performance and payment obligations of the Town and TOEURA as to the Subsidence Mitigation and Eligible Public Improvements, the Town has not made, does not make and specifically negates and disclaims any representations, warranties, covenants or guarantees of any kind, whether express or implied, 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, or the value, nature, quality or condition of the water, soil and geology of the Property. Developer acknowledges and agrees that the sale of the Property is made on an "as-is" basis. Developer fully and irrevocably releases the Town from any and all claims that it may now have or hereafter acquire against the Town or its officials, 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 warranties contained herein.

11. Fees and Taxes.

a. All permit and other fees including all tap and impact fees for the Development as assessed by the Code shall be waived by the Town to the maximum extent permitted by law.

b. The Town agrees to rebate all funds actually received by the Town for the Town's construction materials use tax applicable to the Development. The rebate shall be made within 30 days of the Town's receipt of such funds. Boulder County's Use Tax paid directly to Boulder County shall not be included in this rebate.

12. Developer's Obligations.

a. *Construction*. Developer shall commence, diligently pursue and complete the construction of the Development in compliance with this Agreement, the Overall Plan, the PD and other applicable law, subject to reimbursement of the Eligible Public Improvements.

b. *Entitlements*. Developer shall, at its sole cost and expense, obtain all necessary entitlements and approvals, including without limitation zoning, subdivision, site plan, and permits, to construct and complete the Development.

c. *Progress Reports*. Until the last certificate of occupancy is issued for the Development, Developer shall, at the request of the Town, make quarterly reports in such commercially reasonable detail as may reasonably be requested by Town.

d. *Retail Uses*. Developer shall prioritize the marketing and solicitation of commercial space and pad sites to local and regional tenants and small business owners ("Local Tenants"). National chains and national brands are discouraged in the Development except the Grocery Anchor. Notwithstanding the foregoing, Developer shall not be precluded from leasing or selling to non-Local Tenants if good faith leasing efforts fail to attract qualified and economically competitive Local Tenants to the Development, to be determined at Developer's sole discretion, but after reasonably consulting with the Town and TOEURA in good faith. Developer shall lease or sell a minimum of 30% of the total leasable space in the Property (after deducting the Anchor Grocer space) to food

and beverage tenants, and shall not lease or sell more than 30% of the Property to retail office professional tenants such as financial, real estate, title, insurance, medical, dental, chiropractic, and similar office uses ("Retail Office Uses"). Retail Office Uses shall not include nail salons, hair salons, med spas, fitness, massage therapy or other similar personal service uses. No single building for commercial use, except for the Anchor Grocer, shall exceed 15,000 square feet. Notwithstanding the foregoing, electric vehicles charging banks or stations are permitted on a pad site or within the shared shopping center parking fields.

e. *Applicable Law*. Developer shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

13. Representations and Warranties.

a. Developer hereby represents and warrants to the Town and TOEURA that all of the following are true and correct in all material respects as of the date of signature and the Effective Date: this Agreement has been duly authorized and executed by Developer as the legal, valid and binding obligation of Developer, and is enforceable as to Developer in accordance with its terms; the person executing this Agreement on behalf of Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of Developer; to the actual knowledge of Developer, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Developer which, if decided or determined adversely, would have a material adverse effect on the ability of Developer to undertake its obligations under this Agreement nor, to the actual knowledge of Developer, is there any fact or condition of the Property known to Developer that may have a material adverse effect on Developer's ability to Develop the Property as contemplated; and neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Developer is a party or by which Developer is bound or affected.

b. The Town covenants, represents, and warrants as follows, to the best of its actual knowledge: there is no litigation or threatened litigation, proceeding or investigation contesting the powers of the Town or its officials with respect to the

Property, this Agreement or the improvements that has not been disclosed to Developer; the Town shall immediately disclose to Developer the filing or service of any such suit affecting the Property prior to the delivery of a certificate of occupancy; and there are 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.

14. Indemnification. Developer agrees to indemnify and hold harmless the Town and TOEURA and their officers, insurers, volunteers, representatives, agents, employees, attorneys, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, to the extent on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, to the extent arising out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by the omission, error, professional error, mistake, negligence, or other fault of Developer, or any officer, employee, representative, agent or subcontractor of Developer. In addition, Developer shall pay all property taxes on property underlying Improvements to be dedicated to the Town before acceptance by the Town and shall indemnify and hold harmless the Town for any such property tax liability.

15. Assignment. 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 the Town and TOEURA. Notwithstanding the foregoing, the following actions do not require the Town's or TOEURA's approval, provided they comply with this Agreement and applicable law and further provided that Developer provides notice of any such action listed in subsection b. to the Town and TOEURA at least 10 days prior to such action:

a. Agreements concerning the leasing or sale of portions of the Property to retail users or the Anchor Grocer; and

b. The assignment of Developer's rights to an Affiliate or the District.

16. Developer Default and Remedies.

a. *Default*. Each of the following is a Developer default of this Agreement:

i. If Developer fails to perform any of its obligations under this Agreement and fails to remedy the same within 30 days after Developer is given a written notice specifying the same; provided that, if the nature of the violation is such that it cannot reasonably be remedied within 30 days, and Developer provides evidence to the Town that the violation cannot reasonably be remedied within 30 days, then the violation shall be remedied as soon as reasonably practicable, but in any case, within 120 days of the original notice of violation;

ii. If an involuntary petition is filed against Developer under a bankruptcy or insolvency law or under the reorganization provisions of any law, or when a receiver of Developer, or of all or substantially all of the property of Developer, is appointed without acquiescence, and such petition or appointment is not discharged or stayed within 90 days after the happening of such event; or

iii. If Developer makes an assignment of its property for the benefit of creditors, or files a voluntary petition under a bankruptcy or insolvency law or seeks relief under any other law for the benefit of debtors.

b. *Notice*. Unless necessary to protect the immediate health, safety, and welfare of the Town or TOEURA, the Town or TOEURA, as applicable, shall provide Developer at least 30 days' prior written notice of its intent to take any action under this Section, during which Developer may cure the default.

c. *Remedies*. If a Developer default occurs beyond applicable notice and cure, either the Town or TOEURA or both may take such action as permitted or authorized by law, this Agreement or the ordinances of the Town, as the Town or TOEURA deems necessary to protect the public health, safety, and welfare. The remedies available to the Town and TOEURA include without limitation:

i. If prior to the closing of the conveyance of the Property, termination of this Agreement upon notice given to the Developer;

ii. The refusal to issue any building permit;

iii. The revocation of any building permit previously issued under which construction related to such building permit has not commenced; and

iv. Any other remedies available at law or equity, and the exercise of one remedy shall not preclude the exercise of any other remedy, and further provided that the expiration of this Agreement shall in no way limit the Town's or TOEURA's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed, and further provided that in no event shall Developer be liable to the Town or TOEURA for any indirect, special, consequential or punitive damages of any kind, whether in contract, tort or otherwise.

17. Town Default and Remedies.

a. *Default*. The following is a Town default of this Agreement: if the Town fails to observe or perform any covenant or obligation required of it under this Agreement or any representation or warranty made by Town under this Agreement is materially false when made and the Town fails to remedy the same within 30 days after the Town is given a written notice specifying the same; provided that, if the nature of the violation is such that it cannot reasonably be remedied within 30 days, and the Town provides

evidence to Developer that the violation cannot reasonably be remedied within 30 days, then the violation shall be remedied as soon as reasonably practicable, but in any case, within 120 days of the original notice of violation.

b. *Remedies*. If a Town default occurs, Developer shall have all remedies available at law or equity, and the exercise of one remedy shall not preclude the exercise of any other remedy, provided that Developer shall not have the remedy of specific performance against the Town. Without limiting the generality of the foregoing, in the event a Town default occurs, Developer may terminate this Agreement upon notice given to the Town, without waiving any of its rights or remedies hereunder.

18. TOEURA Default and Remedies.

a. *Default*. The following is a TOEURA default of this Agreement: if TOEURA fails to observe or perform any covenant or obligation required of it under this Agreement or any representation or warranty made by TOEURA under this Agreement is materially false when made and TOEURA fails to remedy the same within 30 days after TOEURA is given a written notice specifying the same; provided that, if the nature of the violation is such that it cannot reasonably be remedied within 30 days, and TOEURA provides evidence to Developer that the violation cannot reasonably be remedied within 30 days, then the violation shall be remedied as soon as reasonably practicable, but in any case, within 120 days of the original notice of violation.

b. *Remedies*. If a TOEURA default occurs, Developer shall have all remedies available at law or equity, and the exercise of one remedy shall not preclude the exercise of any other remedy. Without limiting the generality of the foregoing, in the event a TOEURA default occurs, Developer may terminate this Agreement upon notice given to the TOEURA and the Town, without waiving any of its rights or remedies hereunder.

19. Miscellaneous.

a. *Governing Law and Venue*. The laws of the State of Colorado shall govern this Agreement, and the exclusive venue for any legal proceeding arising out of this Agreement shall be in Boulder County, Colorado.

b. *No Third-Party Beneficiaries*. There are no intended third-party beneficiaries to this Agreement.

c. *Severability*. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

d. *Governmental Immunity*. Nothing herein shall be construed as a waiver of any protections or immunities the Town or TOEURA or their employees, officials or attorneys may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

e. *No Joint Venture*. Notwithstanding any provision hereof, neither the Town nor TOEURA shall be a joint venture in any private entity or activity which participates in this Agreement, and neither the Town nor TOEURA shall ever be liable or responsible for any debt or obligation of any participant in this Agreement.

f. *Notice*. Notices under this Agreement shall be sufficiently given if sent by regular U.S. mail, postage prepaid, to the address on the first page of this Agreement.

g. *Integration*. This Agreement, together with all exhibits attached hereto, constitutes the entire understanding and agreement of the Parties, integrates all the terms and conditions mentioned herein, and supersedes all negotiations or previous arrangements between the Parties with respect to the subject matter hereof.

h. *Recordation*. This Agreement shall be recorded in the real estate records of the Boulder County Clerk and Recorder and shall be a covenant running with the Property.

i. *Subject to Annual Appropriation*. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year. The Town represents that it presently intends to appropriate the payments under this Agreement to the fullest extent permitted by law.

j. *Force Majeure*. No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to tornadoes, earthquakes, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, embargoes, pandemics, and the authority and orders of government.

k. *Days*. If the day for any performance or event provided for herein is a Saturday, Sunday or other day on which the Town is not open for the regular transaction of business, such day therefor shall be extended until the next day on which the Town is open for the transaction of business.

In Witness Whereof, the Parties have executed this Agreement 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-County Line & Erie Parkway, L.L.C.,
an Arizona limited liability company

By: Evergreen Development Company-2023, 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

Exhibit A
Legal Description of Property

Tract A, Ranchwood Minor Subdivision. Located in the East Half of the Northeast Quarter of Section 24, Township 1 North, Range 69 West of the 6th Principal Meridian, Town of Erie, County of Boulder, State of Colorado.

FOR INFORMATIONAL PURPOSES ONLY: Assessor Parcel No. R0511537 / 146524110001

Exhibit B
Eligible Public Improvements

Mine Mitigation Costs

- Subsidence mitigation site work, investigation, design, and construction oversight to be completed by the Town before the Development may occur, subject to Section 4 of this Agreement

On-Site Costs

- Parking, drives, hardscape (sidewalks), landscaping, irrigation and greenspace areas
- Building pad preparation, including grading, export, compaction, soil reconditioning, structural fill and surveying
- Grading and export of soil
- Wet utility mains, including all utility mains for water, storm sewer and sanitary sewer
- Wet utility laterals, including water (fire hydrants), storm sewer (inlets) and sanitary sewer
- Dry utilities, including on and off-site lighting, electric vehicle charging infrastructure and equipment, and electrical for all monument signage
- Underground irrigation ditch, as described in the Town Center Final Report and Planned Development Guide
- Underground stormwater pond, as described in the approved Site Plan, and stormwater detention required for any new development pursuant to applicable Town standards
- General contractor's costs for personnel, site office, temporary utilities, site management, mobilization, fees, and insurance

Off-Site Costs

- Construction of Pinnacle Boulevard and Town Center North roadways, including grading, preparation, hardscape (sidewalks), curb and gutter, paving, greenspace, landscaping, irrigation, wet utilities, utility mains and laterals for storm sewer, sanitary sewer and water, as described in the Town Center Final Report and Planned Development Guide
- Traffic signal for the intersection of Erie Parkway and Pinnacle Boulevard, as described in the Erie Transportation and Mobility Plan approved on December 10, 2024
- Electric reinforcement, including utility company charges, and any allocated share of costs per the Joint Funding Agreement for the Xcel Off-Site Distribution Line Extension, approved by Town Council on March 25, 2025
- Improvements to County Line Road, as described in the Erie Transportation and Mobility Plan approved on December 10, 2024.

- Natural gas reinforcement, including utility company charges
- General contractor's costs for personnel, site office, temporary utilities, site management, mobilization, fees, and insurance

Soft Costs

- Architecture and engineering for site and building design
- Geotechnical, compaction and materials testing
- Phase 1 and Phase 2 environmental reviews, hazard checks and site assessments
- Additional geotechnical borings and soil reports for foundations and utilities
- Construction drawings, blueprints and plan sets for permits and building
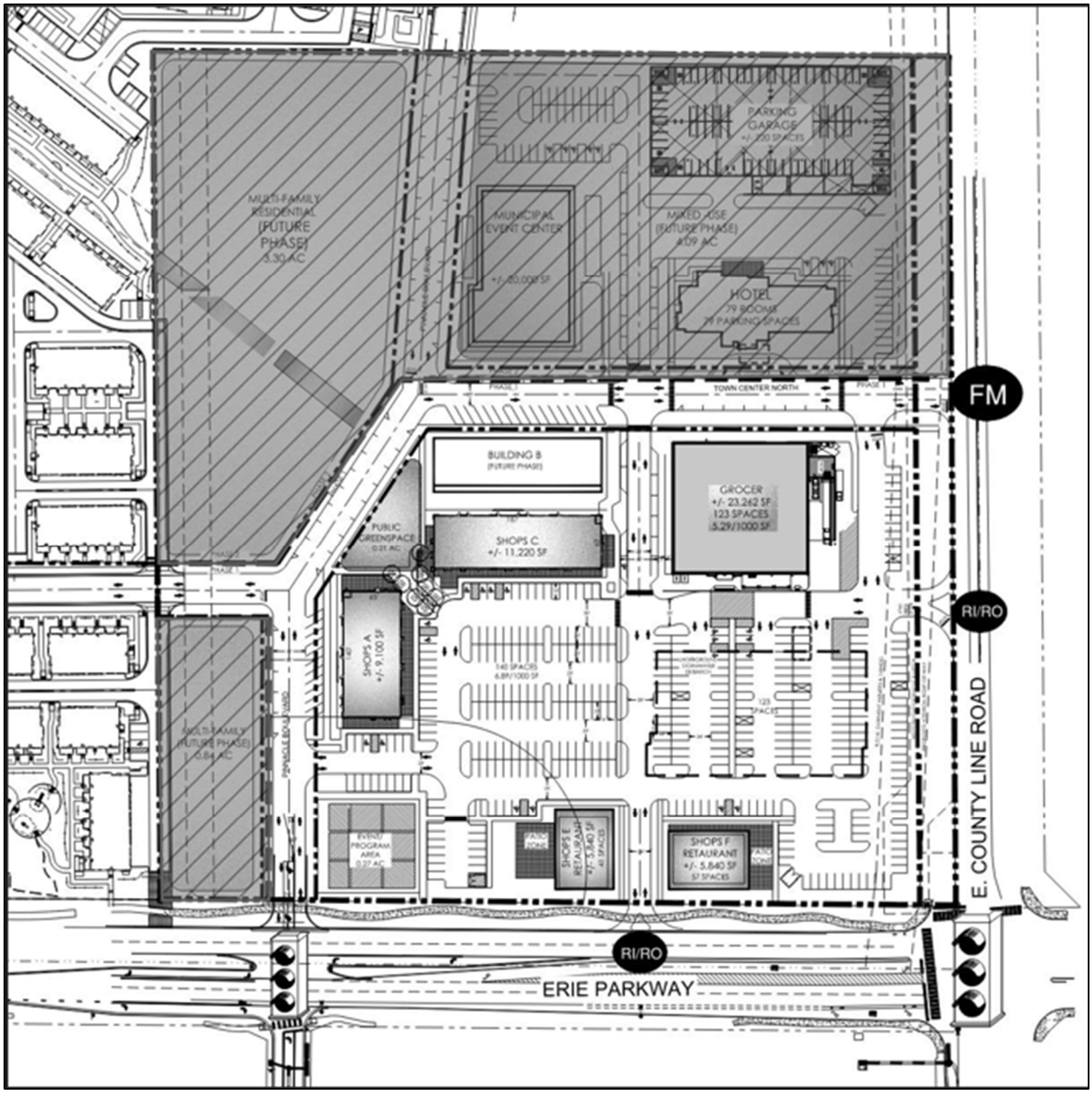
Exhibit C
Overall Plan