

**FIRST AMENDMENT TO ENCORE CR DOWNTOWN
REDEVELOPMENT AND FINANCING AGREEMENT**

DATE: _____, 2019.

PARTIES: **TOWN OF CASTLE ROCK**, a home rule municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”).

CASTLE ROCK DOWNTOWN DEVELOPMENT AUTHORITY, a downtown development authority duly organized and existing under Part 8 of Article 25, Title 31, C.R.S., 18 South Wilcox Street, Suite 202, Castle Rock, Colorado 80104 (“DDA”).

TOWN OF CASTLE ROCK FESTIVAL PARK COMMONS GENERAL IMPROVEMENT DISTRICT, a general improvement district organized under Part 6 of Article 25, Title 31, C.R.S., 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“GID”).

CD-FESTIVAL COMMONS, LLC, a Colorado limited liability company, 430 Indiana Street, Suite 200, Golden, Colorado 80401 (“CDFC”).

RECITALS:

- A. The above-named entities are the Parties to the Encore CR Downtown Redevelopment and Financing Agreement CDFC dated September 3, 2019 (the “RDA”). The Parties have identified the need to make certain revisions to the RDA.

THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree and covenant as follows:

Section 1. Amendment. The following seven sections (or subsections) of the RDA are amended, and as so amended, restated as follows:

3.07 Project Completion. This Agreement primarily addresses the construction of the Parking Garage. However, timely completion of the entire Project is required in order that the Project generates the incremental revenues allocated to the Parties as provided in this Agreement. Accordingly, CDFC shall complete the Project in accordance with the following benchmarks:

Foundation Permit issuance	12/31/2019
Project Structural Building Permit issuance	03/31/2020
Certificate of Occupancy for first residential unit(s)	07/31/2022

At the request of CDFC and for good cause, Town may extend one or more of the above-referenced benchmarks by an additional 6 months. Such extension shall be effected by written notice from the Town Manager.

4.05 Progression of Construction. CDFC shall commence construction and complete construction of the Parking Garage in accordance with the following benchmarks:

Foundation Permit issuance	30 days from Construction Closing
Parking Garage Structural Building Permit	03/31/2020
Certificate of Occupancy	03/31/2021

Failure to meet the benchmarks set forth in this 4.05, as extended by Town (if applicable), shall constitute a default under this Agreement by CDFC.

4.07 Completion Bond. CDFC shall provide Town with a performance and completion bond (“Completion Bond”) obligating the surety to expend up to \$14.5 million to complete construction of the Parking Garage in the event of an uncured default by CDFC in completion of the Parking Garage in accordance with this Agreement. Town shall have the right to approve the Completion Bond as a condition to the Construction Closing.

4.08 Construction Closing.

A. The Construction Closing shall occur on November 22, 2019, which date may be extended by mutual consent of the Parties.

B. 2. CDFC:

h. Completion Bond in accordance with 4.07;

4.09 Construction Suspension. In the event that construction on the Parking Garage should cease for a duration of 60 days or more, or should CDFC be subject to a voluntary or involuntary bankruptcy proceeding, such event shall constitute a default of this Agreement. Subject to obtaining any required judicial approval, Town shall have the right to assume the Parking Garage Contract and complete construction of the Parking Garage in conjunction with the surety under the Completion Bond. These remedies afforded Town shall be in addition to the remedies provided in 11.06.

9.03 45 Mill Levy Cap Applicable.

A. Annually beginning in Certification Year 2022 and ending in Certification Year 2038, the Board shall levy and certify a GID Mill Levy of 45 mills (adjusted to account for changes in the method by which assessed valuation is calculated). Town will retain the right to utilize the GID Tax Revenue in the Special Fund for all lawful purposes. CDFC shall have no right or claim to the GID Tax Revenue.

B. Irrespective of subsection A., the Board shall cease certification of the GID Mill Levy when Town recovers the Town Investment as provided in 7.01.

9.04 30 Mill Levy Cap Applicable.

A. Annually beginning in Certification Year 2022 and ending in Certification Year 2038, the Board shall levy and certify a GID Mill Levy of 30 mills. Town will retain the right to utilize the GID Tax Revenue in the Special Fund for all lawful purposes. CDFC shall have no right or claim to GID Tax Revenue.

B. Irrespective of subsection A., the Board shall cease certification of the GID Mill Levy when the Town recovers the Town Investment as provided in 7.01.

Section 2. Ratification. The Parties ratify and confirm the RDA as amended by this First Amendment and acknowledge, that as amended the RDA is in full force and effect.

Section 3. Recordation. This First Amendment shall be recorded in the public records of Douglas County, Colorado.

TOWN:

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

David L. Corliss, Town Manager

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by Lisa Anderson as Town Clerk and Jason Gray as Mayor of the Town of the Town of Castle Rock, Colorado.

Witness my official hand and seal.
My commission expires: _____

[S E A L]

Notary Public

**CASTLE ROCK DOWNTOWN
DEVELOPMENT AUTHORITY**

Its: _____

Witness my official hand and seal.
My commission expires: _____

Notary Public

Corey Hoffman, General Counsel

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

Witness my official hand and seal.
My commission expires: _____

Notary Public

General Counsel

CDFC:

CD-FESTIVAL COMMONS, LLC, a Colorado limited liability company

By: _____

Its: _____

STATE OF)
) **ss.**
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 _____ as _____ for CD-Festival Commons, LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: _____

[S E A L]

Notary Public