

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 12
Series of 2018

TITLE: RESOLUTION NO. 12-2018 - A RESOLUTION CONCERNING THE PROPOSED REDEVELOPMENT WITHIN THE APPLEWOOD SHOPPING CENTER FOR THE DEVELOPMENT OF A HACIENDA COLORADO RESTAURANT, AND AUTHORIZING A COOPERATION AGREEMENT IN CONNECTION THEREWITH

WHEREAS, the City is a home rule municipality and political subdivision of the State of Colorado organized and existing under a home rule charter pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, the City Council of the City (the "City Council") established the Wheat Ridge Urban Renewal Authority d/b/a/ Renewal Wheat Ridge (the "Authority") on October 18, 1981, as an urban renewal authority pursuant to Colorado Revised Statutes, Part 1 of Title 31, Article 25, as amended; and

WHEREAS, the City Council has adopted the I70/Kipling Corridors Urban Renewal Plan, as amended (the "Urban Renewal Plan" or the "Plan") for the area described therein (the "Urban Renewal Area"); and

WHEREAS, U.S. Retailers Partners, LLC (the "Developer") has leased land to Hacienda Colorado which is located in the Applewood Shopping Center (the "Property"), which is in the Urban Renewal Area; and

WHEREAS, the Developer has submitted a proposal to the City and the Authority to redevelop the Property (the "Project"); and

WHEREAS, the City has determined and hereby determines that it is in the best interests of the City and its citizens to assist in the redevelopment of the Project; and

WHEREAS, the Authority has determined that the redevelopment of the Project in order to remediate blight is consistent with and in furtherance of the purposes of the Authority and the Plan; and

WHEREAS, the Urban Renewal Plan contemplates that a primary method of financing projects within the Urban Renewal Area will be through the use of property tax increment revenues and City sales tax increment revenues; and

WHEREAS, the Plan adopted the utilization of property and sales tax increment for the Property and authorizes the Authority to pledge such property tax increment revenues and City sales tax increment revenues to finance public infrastructure that benefits the Urban Renewal Area pursuant to one or more Cooperation Agreements (as defined therein); and

WHEREAS, the Authority and the Developer desire to enter into a Redevelopment Agreement (the "Redevelopment Agreement") that sets forth the rights and responsibilities of each party with respect to the financing and construction of the Project; and

WHEREAS, in order to finance certain eligible improvements for the Project, the Redevelopment Agreement provides that, upon compliance with certain conditions precedent, the Authority will reimburse the Developer for eligible costs incurred in connection with such eligible improvements in the maximum amount of \$1,015,000 (the "Reimbursement Amount ") with the Reimbursement Amount to be payable solely from property tax increment revenues and sales tax increment revenues to be generated from the redevelopment of the Project; and

WHEREAS, in connection with the execution and delivery of the Redevelopment Agreement and the repayment of the Reimbursement Amount in accordance therewith, the City and the Authority believe it is in the best interests of the City and the Authority to enter into a Cooperation Agreement (the "Cooperation Agreement") related to the Project; and

WHEREAS, there has been filed with the City Clerk of the City (the "City Clerk") the proposed form of the Cooperation Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wheat Ridge, Colorado, that:

Section 1. Finding of Best Interests and Public Purpose. The City Council hereby finds and determines, pursuant to the Constitution, the laws of the State and the City's home rule charter (the "Charter"), and in accordance with the foregoing recitals, that adopting this Resolution, redeveloping the Project and entering into the Cooperation Agreement are in the best interests of the inhabitants of the City.

Section 2. Approval of Cooperation Agreement. The Cooperation Agreement, as shown in **Exhibit 1** in substantially the form on file with the City Clerk, is in all respects approved, authorized and confirmed. The Mayor is hereby authorized and directed to execute and deliver the Cooperation Agreement, for and on behalf of the City, in substantially the form and with substantially the same contents as is on file with the City Clerk, provided that such document may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Resolution. The execution of the Cooperation Agreement by the Mayor shall be conclusive evidence of the approval by the City Council of such document in accordance with its terms.

Section 3. Direction to Act. The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this Resolution and to place the seal of the City on any document authorized and approved by this Resolution. The Mayor, the City Manager, the City Clerk, the City Attorney, and all other appropriate officials or employees of the City are

hereby authorized and directed to execute and deliver for and on behalf of the City any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they deem necessary or appropriate, in order to facilitate the redevelopment of the Project and implement and carry out the transactions and other matters authorized by this Resolution.

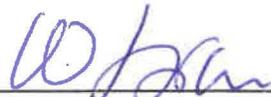
Section 4. Ratification. All actions (not inconsistent with the provisions of this Resolution) heretofore taken by the City Council or the officers, employees or agents of the City directed toward the redevelopment of the Project and the execution and delivery of the Cooperation Agreement are hereby ratified, approved and confirmed.

Section 5. Severability. If any section, subsection, paragraph, clause or provision of this Resolution or the documents hereby authorized and approved shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution or such documents, the intent being that the same are severable.

Section 6. Repealer. All prior resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 8. Effectiveness. This Resolution shall take effect immediately.

DONE AND RESOLVED this 26th day of February, 2018.



Bud Starker, Mayor

Attest:



Janelle Shaver, City Clerk

EXHIBIT 1

COOPERATION AGREEMENT BETWEEN THE CITY OF WHEAT RIDGE AND WHEAT RIDGE URBAN RENEWAL AUTHORITY

THIS COOPERATION AGREEMENT (this "Agreement") dated as of February 26, 2018, is made and entered into between the CITY OF WHEAT RIDGE, COLORADO (the "City") and the WHEAT RIDGE URBAN RENEWAL AUTHORITY d/b/a/ RENEWAL WHEAT RIDGE (the "Authority").

WHEREAS, the City is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its home rule charter (the "Charter"); and

WHEREAS, the Authority is a Colorado Urban Renewal Authority, with all the powers and authority granted to it pursuant to Title 31, Article 25, Part 1, Colorado Revised Statutes ("C.R.S.") (the "Urban Renewal Law"); and

WHEREAS, pursuant to Article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and the Authority are authorized to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each governmental entity; and

WHEREAS, the City Council of the City (the "City Council") has previously adopted the I-70/Kipling Corridors Urban Renewal Plan, as amended (the "Urban Renewal Plan" or the "Plan") for the area described therein (the "Urban Renewal Area"); and

WHEREAS, U.S. Retail Partners, LLC a Delaware limited liability company (the "Developer") has the desire to construct a 9,500 sq. ft. Hacienda Colorado restaurant on a pad in the Applewood Shopping Center consisting of approximately .6 acres which is located north of the northeast corner of 32nd Avenue and Youngfield Street (the "Property"), which is in the Urban Renewal Area; and

WHEREAS, the Developer has submitted a proposal to the City and the Authority to redevelop the Property (the "Project"); and

WHEREAS, the Project is being undertaken to facilitate the elimination and prevention of blighted areas and to promote redevelopment, conservation and rehabilitation of the Urban Renewal Area; and

WHEREAS, pursuant to section 31-25-112, C.R.S., the City is specifically authorized to do all things necessary to aid and cooperate with the Authority in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations, or activities of the Authority, to enter into agreements with the Authority respecting such actions to be taken by

the City, and appropriating funds and making such expenditures of its funds to aid and cooperate with the Authority in undertaking the Project and carrying out the Plan; and

WHEREAS, the Authority and the Developer expect to enter into a Redevelopment Agreement (the "Redevelopment Agreement") that sets forth the rights and responsibilities of each party with respect to the financing and construction of the Project; and

WHEREAS, in order to finance certain eligible improvements for the Project, the Redevelopment Agreement provides that, upon compliance with certain conditions precedent, the Authority will provide a one-time cash payment of \$100,000 from reserves in the special account of the I70/Kipling Corridors Urban Renewal Plan and reimbursement of \$1,015,000 (the "Payment") with such Payment to be payable from the Pledged Property Tax Increment Revenue and Pledged Sales Tax Increment Revenues as the same are defined in the Redevelopment Agreement to be generated from the redevelopment of the Project; and

WHEREAS, in order to implement the provisions regarding the use of Pledged Sales Tax Increment Revenues generated from the Project, this Cooperation Agreement is necessary to cause the City to deposit such Pledged Sales Tax Increment Revenues into the Special Fund of the Authority to reimburse the Developer for Eligible Costs of the Project as defined in the Redevelopment Agreement; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Redevelopment Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth below, the City and the Authority agree as follows:

I. COOPERATION.

(a) The City shall continue to make available such employees of the City as may be necessary and appropriate to assist the Authority in carrying out any authorized duty or activity of the Authority pursuant to the Urban Renewal Law, the Plan, or any other lawfully authorized duty or activity of the Authority.

(b) The City agrees to assist the Authority by pursuing all lawful procedures and remedies available to it to collect and transfer to the Authority on a timely basis all Pledged Sales Tax Increment Revenues for deposit into the Project Account of the Special Fund until the total amount of Pledged Revenues as defined in the Redevelopment Agreement paid to Developer equals the Reimbursement Amount, or August 31, 2029, whichever first occurs.

(c) To the extent lawfully possible, the City will take no action that would have the effect of reducing tax collections that constitute Pledged Sales Tax Increment Revenues.

4. GENERAL PROVISIONS.

(a) Separate Entities. Nothing in this Agreement shall be interpreted in any manner as constituting the City or its officials, representatives, consultants, or employees as the agents of the Authority, nor as constituting the Authority or its officials, representatives, consultants, or employees as agents of the City. Each entity shall remain a separate legal entity pursuant to applicable law. Neither party shall be deemed hereby to have assumed the debts, obligations, or liabilities of the other.

(b) Third Parties. Neither the City nor the Authority shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto, provided, however, that the Lender is a third party beneficiary to the provisions hereof related to the collection and remittance to the Authority of the Pledged Revenues.

(c) Modifications. No modification or change of any provision in this Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by both parties and incorporated as a written amendment to this Agreement. Memoranda of understanding and correspondence shall not be construed as amendments to the Agreement.

(d) Entire Agreement. This Agreement shall represent the entire agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties relating to the subject matter of this Agreement and shall be independent of and have no effect upon any other contracts.

(e) Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

(f) Assignment. Except for the pledge under the Loan Documents, this Agreement shall not be assigned, in whole or in part, by either party without the written consent of the other.

(g) Waiver. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach or of such provision. Failure of either party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies reserved in this Agreement shall be cumulative and additional to any other remedies in law or in equity.

IN WITNESS WHEREOF, this Agreement is executed by the Parties as of February 26, 2018

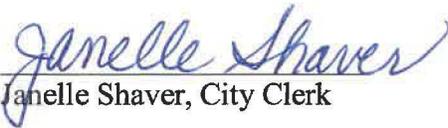
CITY OF WHEAT RIDGE, COLORADO



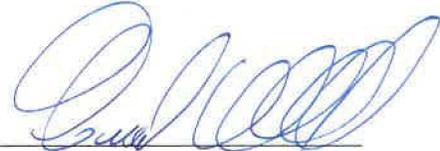
(SEAL)

By: 
Bud Starker, Mayor

Attest:


Janelle Shaver, City Clerk

APPROVED AS TO FORM


Gerald Dahl, City Attorney

WHEAT RIDGE URBAN RENEWAL AUTHORITY

ATTEST:


Tim Rogers, Chairperson


Steve Art, Executive Director

