




**ADMINISTRATION MEMORANDUM**  
**13-19**

**DATE:** August 12, 2013

**TO:** Honorable Mayor Joyce Downing and City Council Members

**COPY:** Northglenn Urban Renewal Authority Commissioners

**FROM:** John Pick, City Manager   
Brook Svoboda, Planning & Development Director   
Debbie Tuttle, Economic Development Manager 

**SUBJECT:** Hawkins Development Agreement Addendums  
CR-80, First Amendment to ESTIP Agreement - Hawkins Development/HD Northglenn

**BACKGROUND**

The original Redevelopment Agreement and Enhanced Sales Tax Incentive Agreement (ESTIP) with Hawkins Development LLC (Redeveloper) were signed on October 10, 2012 to redevelop 11 acres at 120<sup>th</sup> Avenue and Grant Street.

In the Redevelopment Agreement under Section 9d, the Reconveyance Condition reserves the right for the City and NURA to demand the property back if construction did not commence within ten months after closing. The developer's lender (PrivateBank) has required as a condition of the construction loan that this Reconveyance Condition be deleted from the Redevelopment Agreement.

Resolution CR-79 is a Second Amendment to the Redevelopment Agreement. Under the Section 3 of the Amendment the Reconveyance Condition is terminated. In exchange for this termination new language has been added under Sections 4 and 5 that the Redeveloper agrees that in the event that Lot 6 (Pad F) is not completed by the July 31, 2016, the Redeveloper is obligated to reimburse the City and the Authority in an amount equal to Six Dollars (\$6.00) per square foot or \$653,706 for that property.

Approval of Resolution CR-80 is a First Amendment to the ESTIP Agreement which secures the payment obligation under Section 5a of the Second Amendment to the Redevelopment Agreement. The ESTIP First Amendment provides that if the project is not completed by July 31, 2016 that the ESTIP reimbursement is reduced by the amount under 5a of the Redevelopment Agreement (\$653,706).

**STAFF RECOMMENDATIONS**

If Council agrees, it is staff's recommendation to approve Resolutions CR-79 and CR-80 to amend both the Redevelopment and ESTIP Agreements with the Redeveloper.

**STAFF REFERENCES:** If you have any comments or questions, please contact John Pick, David Willett, Brook Svoboda or Debbie Tuttle.

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-80  
Series of 2013

\_\_\_\_\_  
Series of 2013

A RESOLUTION APPROVING THE FIRST AMENDMENT TO ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT BETWEEN THE CITY OF NORTHGLENN, AND HD NORTHGLENN, LLC, AS SUCCESSOR IN INTEREST TO HAWKINS DEVELOPMENT, LLC

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The First Amendment to Enhanced Sales Tax Incentive Program Agreement between the City of Northglenn and HD Northglenn, LLC, as successor in interest to Hawkins Development, LLC attached hereto as **Exhibit A**, is hereby approved, and the Mayor is authorized to execute the same on behalf of the City.

DATED at Northglenn, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
JOYCE DOWNING  
Mayor

ATTEST:

\_\_\_\_\_  
JOHANNA SMALL, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
COREY Y. HOFFMANN  
City Attorney

**FIRST AMENDMENT TO ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT (HAWKINS)**

THIS FIRST AMENDMENT TO ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT (the "First Amendment") is made and executed effective this 14<sup>th</sup> day of August, 2013, by and between THE CITY OF NORTHGLENN, COLORADO, a municipal corporation (hereafter referred to as the "City"), and HDN NORTHGLENN, LLC, a Utah limited liability company (hereafter referred to as "HDN"), as successor in interest to HAWKINS DEVELOPMENT, LLC, a Utah limited liability company (hereafter referred to as "Hawkins").

W I T N E S S E T H

WHEREAS, the City and Hawkins previously entered into an Enhanced Sales Tax Incentive Program Agreement dated October 10, 2012 (the "Original ESTIP Agreement"), such agreement entered into as part of a comprehensive Redevelopment Agreement dated October 10, 2012, entered into between the City, Hawkins and the Northglenn Urban Renewal Authority (the "Original Redevelopment Agreement");

WHEREAS, the City, Hawkins and the Northglenn Urban Renewal Authority have subsequently entered into that First Addendum to Redevelopment Agreement dated May 20, 2013 (the "First Addendum"), and the City, HDN (as successor-in-interest to Hawkins) and the Northglenn Urban Renewal Authority have entered into a Second Addendum to Redevelopment Agreement dated August 14, 2013 (the "Second Addendum"), and such Second Addendum requires this First Amendment between the City and HDN.

A G R E E M E N T

NOW THEREFORE, the parties hereto, for themselves and their successors and assigns, in and for the consideration of the performance of the mutual covenants and promises set forth herein, the receipt and adequacy of which are hereby acknowledged, do hereby covenant and agree as follows:

1. Section 2 of the Original ESTIP Agreement is hereby deleted in its entirety and amended to read as follows:

2. Enhanced Sales Tax Incentive Program (ESTIP). In accordance with the goals and purposes of Article 12 of Chapter 5 of the Northglenn Municipal Code, the parties hereby mutually agree to the following ESTIP provisions. For purposes of this Section 2, the total amount of the City's four percent (4%) sales tax is restricted by one-half percent (1/2%) sales tax devoted to water acquisition and the one-half percent (1/2%) sales tax devoted to capital improvements, which results in a three percent (3%) sales tax to be used in determining this reimbursement. All sales tax revenues collected from any and all businesses on the Property above the Sales Tax

Base described herein shall constitute the Enhanced Sales Tax and shall be subject to division and reimbursement as specified herein. The parties agree that the Sales Tax Base shall be zero. The parties hereby agree that the Enhanced Sales Tax as defined herein shall be subject to sharing by the City and HDN on a 50/50 basis, with Fifty Percent (50%) of said Enhanced Sales Tax being available to the City for use in its discretion, and Fifty Percent (50%) to be reimbursed by the City to HDN.

The parties agree that the maximum reimbursement (the "Maximum Reimbursement") of Enhanced Sales Tax revenue subject to distribution to HDN hereunder shall be One Million Four Hundred Thousand Dollars (\$1,400,000.00), and that the "Enhanced Sales Tax" shall be shared commencing with sales taxes generated on the Property on or after January 1, 2015, and shall terminate on or before December 31, 2021 (upon Maximum Reimbursement). ***Provided however, the Maximum Reimbursement hereunder shall be reduced by the amount required to be paid by HDN pursuant to Section 5 of the Second Addendum in the event that the Project is not completed by the Completion Date in accordance with the Second Addendum.*** The parties specifically acknowledge and agree that whether or not the entire Maximum Reimbursement has been earned by HDN, the Enhanced Sales Tax Portion ("ESTIP") reimbursement obligation of this Agreement shall terminate on December 31, 2021, which is seven (7) years from the commencement date of January 1, 2015. Likewise, the parties acknowledge and agree that receipt by HDN of the Maximum Reimbursement amount of One Million Four Hundred Thousand Dollars (\$1,400,000.00), ***or such lesser amount in accordance with Section 5 of the Second Addendum and this Section 2 of this Agreement,*** shall terminate the ESTIP reimbursement obligations of this Agreement.

2. **INTEGRATION.** Except as modified herein, the Original ESTIP Agreement is in full force and effect, and is hereby ratified by the City and HDN. In the event of any conflict between the Original ESTIP Agreement and this First Amendment, the terms and conditions of this First Amendment shall control.

***[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]***

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to be effective as of the date first above set forth.

HD NORTHGLENN, LLC, a Utah limited liability company

By: Hawkins Development, LLC, a Utah limited liability company, its Manager

By: [Signature]  
Kevin B. Hawkins, Manager

STATE OF COLORADO )  
 ) ss.  
COUNTY OF ARAPAHOE )

Subscribed, sworn to and acknowledged before me this 7th day of August, 2013 by Kevin B. Hawkins, as Manager of Hawkins Development, LLC, a Utah limited liability company, as Manager of HD Northglenn, LLC, a Utah limited liability company.

My commission expires: 4/18/2014

(SEAL)

[Signature]  
Notary Public



My Commission Expires April 18, 2014

THE CITY OF NORTHGLENN, COLORADO, a  
municipal corporation

\_\_\_\_\_  
Joyce Downing, Mayor

ATTEST:

\_\_\_\_\_  
Johanna Small, CMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Corey Y. Hoffmann, City Attorney

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF ADAMS            )

Subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2013, by Joyce Downing as Mayor of the City of Northglenn, Colorado, a municipal corporation.

My commission expires: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Notary Public