

NURA MEMORANDUM
#17-09

DATE: September 13, 2017

TO: NURA Board & Advisors

FROM: Debbie Tuttle, NURA Executive Director

SUBJECT: **Resolution N/17-38 - HCP Reimbursement Agreement**

PURPOSE:

The purpose of this memorandum is to formalize the financial commitment outlined in the June 7, 2017 (**Attachment A**) to Hutensky Capital Partners (HCP) to assist in the planning process to develop both a Short and Long-Term Plan for the Marketplace.

Because of the significant importance to this planning effort, and the timing of the project, the City/NURA committed up to 50% of the cost of the studies and consultants to prepare the Plans not to exceed \$500,000.

BACKGROUND:

HCP is under contract to purchase the majority of the Marketplace. On June 7, 2017 a letter was sent to HCP outlining the city's goals, and to provide some guidance and direction in developing both a Short-Term Stabilization Plan and Long Term Redevelopment Plan for the Marketplace.

CURRENT STATUS:

HCP plans to retain a team of consultants (Team) to assist in the development of the Plans. The closing on the property is planned for the end of September. HCP, and their Team are meeting with staff on 10/5/2017 to review the preliminary Plans and to get feedback.

BUDGET IMPLICATIONS: If the board approves this Resolution N/17-38 it could have a budget implication of up to \$500,000. NURA had budgeted \$125,000 for developing a Master Plan for the Marketplace. In addition, there is \$1 million in the budget under *Other Incentives*.

STAFF RECOMMENDATION: It is staff's recommendation to approve N/17-38.

STAFF REFERENCE:

If have any comments or questions, you may contact Debbie Tuttle at dtuttle@northglenn.org at 303-450-8743.



City of Northglenn
 11701 Community Center Drive
 PO Box 330061
 Northglenn, CO 80233-8061
 P: 303-451-8326
 F: 303-450-8708
northglenn.org

June 7, 2017

Mr. Brad Hutensky, Founder & CEO
 Jason J. Klier, Vice President
 Hutensky Capital Partners
 100 Constitution Plaza, 17th Floor
 Hartford, CT 06103

Dear Brad & Jason,

On behalf of the City of Northglenn we are very excited to be working with HCP on the Northglenn Marketplace project. We know how critical the timing is on this project, and we are committed to developing a strong public/private partnership to see the Marketplace revitalized into a thriving center. This project is the City's number one priority determined at the recent City Council retreat, and we will devote the necessary time and resources to assist HCP in streamlining the process, and providing economic tools to assist in stabilizing and redeveloping the Marketplace.

Our goal is to provide HCP with some guidance and direction in developing a Plan that will unlock the City's economic and financial incentives for the Marketplace. Additionally, we feel that by developing a short-term and long-term strategic plan in a public/private partnership setting, that it will expedite the approval and development process.

Below outlines staff's ideas on both a Stabilization Strategy Plan (Phase 1) and a Long-Term Redevelopment Plan (Phase 2) for the center. Again, this is a guiding document to help HCP identify the City's range of planning and economic tools to develop a strategy to stabilize, reenergize, reposition, and redevelop the Marketplace. The City's financial tools may be deployed based on HCP's short-term solution to stabilize the Marketplace, and a long-term redevelopment plan to create economic stability for years going forward.

STABILIZATION STRATEGY PLAN & LONG-TERM REDEVELOPMENT PLAN

The Marketplace is the number one sales tax producer for the City. It is very important to all stakeholders that both a stabilization strategy and long-term redevelopment plan be developed by September 2017 to meet both HCP's and the City's aggressive deadlines.

The Marketplace is currently zoned C-5 (Commercial) and the City is willing to work with the developer to utilize planning tools, including other zone districts and will "fast-track" any re-zone and planning applications. The City will provide all prior and current studies to the Developer. The City places significant importance to this planning effort, and will contribute up to 50% of the cost of the studies, not to exceed \$500,000 to assist in preparing a Stabilization Strategy and Long-Term Redevelopment Plan (Plan) for the Marketplace.

The Plan should consist of two phases: (Phase 1) Stabilization Strategy and (Phase 2) a Long-Term Redevelopment Plan for the Marketplace.

- The Plan will be used as a guiding document for the short and long-term redevelopment of the Marketplace.
- The City would like to work with HCP on the Long Term Redevelopment Plan to ensure continuity with the city's Master Plan and its future vision for the property as a condition of the pre-development cost sharing.
- This document would detail how both HCP and the City can plan the allocation of their respective resources, while remaining flexible to respond to market conditions.
- The Plan should identify how to reposition the Marketplace for long-term stability with respect to the changing national retail demographic shifts.

The Plan should touch on preliminary:

- Site design concepts;
- Variation of land uses if any;
- Infrastructure and drainage concepts;
- Phasing diagrams;
- Economic projections regarding project costs versus project returns to identify funding gaps.
- The city's land use vision for the property includes (but are not limited to):
 - Entertainment Related & Theatre
 - Experiential Retail
 - Hotel & Hospitality
 - Grocer
 - Restaurants
 - Office
 - Multi-Family Residential
 - Public Realm & Gathering Spaces

OVERALL PRIORITIES – PUBLIC / PRIVATE PARTNERSHIP

Below outlines the City's primary goals to develop a cohesive Plan to be used to redevelop the Marketplace utilizing a public/private partnership between HCP and the City.

- Create an overall Plan that will become the guiding document for the phased redevelopment that includes land uses, planning, infrastructure concepts combined with cost and revenue projections to identify financial gaps.
- Consolidate ownership to provide continuity in the tenant mix and a cohesive land parcel for future redevelopment.
- Modify and amend the current CCR's to allow the flexibility to implement the Plan and execute a long-term vision for redevelopment.
- Stabilize the existing tenant base to provide short-financial term stability in terms of lease income and tax revenues.
- Develop an implementation plan (Phase 1) to revitalize the Marketplace with new retail products to create a "forward-looking retail" that changes the image and energy of the Marketplace and begin the redevelopment of the rest of the project, resulting in an increase tax revenues towards positive growth.
- Develop a long-term redevelopment implementation plan (Phase 2) for the remaining parcels that will include a carefully curated tenant mix and other appropriate land uses that creates a long term economic tax base for sales and ad valorem property taxes.

PHASE 1 – Short-Term Stabilization Strategy Plan

Purchase Summit Property:

- Consolidate the ownership with the LNR parcel and the Summit parcel by negotiating a Purchase Sale Agreement with Summit to acquire the entire parcel. The acquisition and consolidation is important to the City and HCP because it will create an organized redevelopment approach, and an ability to curate the land uses and tenant mix throughout the entire Marketplace.
- The City understands that HCP will be considered the only realistic buyer by Summit and may not be able to engage in a free market negotiation for the property, i.e. HCP is a “captive audience” for the seller.
- The City understands the importance for modifying/amending the current Covenant Control Regulations (CCR’s) on this property to allow for future tenancing and the success of the redevelopment of the center.
- The City will partner with HCP in developing and/or modifying the current CCR’s to ensure conformity with the city’s Master Plan, and the implementation of the Plan for both phases that are mutually beneficial for all parties.
- HCP will negotiate and get final written approval authorizing the modifications to the final CCR’s from Lowe’s.
- The City is willing to enter into an agreement with HCP to financially assist with a portion of the sale price that is considered “over market”. The amount of City subsidy will be determined based on the actual purchase price, financial gap, and obtaining CCR approvals from Lowe’s.

Stabilize and Re-Tenant:

- Stabilize the center to include retention of current businesses, and the attraction of new tenants to backfill the existing vacant space, where appropriate.
- HCP should focus on maintaining and increasing the lease-up and sales taxes for the short-term.
- The City provides ESTIP incentives for relocation of existing tenants in the center, if they can demonstrate that there will be an increase over the previous 12 month tax revenue base. It can also provide ESTIP incentives to attract new tenants to the center.
- A variety of types of financial assistance for HCP can be available to attract new tenants to the center based on the financial gap, sales tax projections, and the type of user.

Short-Term Strategy Plan Implementation:

- Develop the initial phase of “forward looking retail” based on the land use concepts and locations identified in the Plan.
- Forward looking retail, as defined in this paper, means a land use that will re-energize the Marketplace, change the scale and perception of the center, and will draw a new customer base.
- This portion of the project could be developed alongside other traditional land uses (i.e. theatre or grocery, food halls and public realm that encourage customer use,).
- This initial phase will likely contain the highest cost and the most risk for HCP.
- The City can deploy economic tools, including long term operating gaps, for this to assure HCP an industry standard return on investment based on the Plan and economic financial gap for the project.

PHASE 2 – Long-Term Redevelopment Plan:

- Develop, joint venture, or sell the remaining parcels identified in the Plan.
- The development of these parcels should be phased and curated in a manner that is accretive to the overall lease rates and sales tax impacts for the Marketplace. Emphasis should be placed on the redevelopment and repositioning of parcels within the existing property boundaries of the Marketplace, while understanding how those parcels may tie into future adjacent property redevelopment.
- Further consideration of the phasing should be given to the infrastructure requirements for drainage (detention and water quality) and wet utilities (sanitary sewer and water).

- The City is able to utilize several economic tools to help underwrite the cost of public infrastructure, however it may not be enough to cover the total financial gap for all of the infrastructure costs related to redevelopment.
- The City will work with HCP to create additional economic tools such as a those listed below.

FINANCING TOOLS:

The City is open to utilizing other financing methods and tools, such as:

- Special Improvement District (SID)
- Public Improvement Fee (PIF)
- General Improvement District (GID)
- Downtown District Area (DDA)
- Business Improvement District (BID)
- Metro District (Title 32)
- Tax Increment Financing – Portion of existing TIF

PROJECT SCHEDULE:

This project is time sensitive due to the urban renewal TIF district (Marketplace) expiring. The City's existing TIF funds in this district need to be committed by a vote of NURA and City Council prior to the end of the 2017. The below schedule outlines tentative timelines for submission of the Plan to staff, and the approval process with City Council and NURA:

- 09/2017 – Plan and incentives request submitted to staff for review and consideration.
- 10/2017 – Plan and incentive requests presented to City Council and NURA's.
- 11/2017 – Final Plan Submitted with budget for approval by City Council and NURA.

Again, this document is to be used as a guiding tool by HCP to assist in preparing both a short and long-term plan to stabilize and redevelop the Marketplace. This document was prepared based on leadership staff recommendations. The final Plan and proposed financial assistance to HCP is subject to final approval by the City Council and NURA.

In conclusion, the City is committed to building a strong public/private partnership with HCP to develop a vision with a short-term plan to stabilize the center, and a long-term plan for future opportunities to maximize the property's potential. We are looking forward to working with HCP to develop a Plan to transform the Marketplace into a thriving, vibrant retail and urban center to enhance the community amenities and services for its residents and visitors, while increasing tax revenues for the city.

Sincerely,



James A. Hayes, AICP
City Manager

Sincerely,



Debbie Tuttle, CeCD
Economic Dev. Manager &
NURA Executive Director

NORTHGLENN URBAN RENEWAL AUTHORITY

RESOLUTION NO.

 N/17-38
Series of 2017

A RESOLUTION APPROVING AN IMPROVEMENT REIMBURSEMENT AGREEMENT WITH MP NORTHGLENN, LLC FOR THE PROPERTIES LOCATED AT THE NORTHGLENN MARKETPLACE, NORTHGLENN, COLORADO

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE NORTHGLENN URBAN RENEWAL AUTHORITY, THAT:

Section 1. The Improvement Reimbursement Agreement attached hereto **Exhibit A** is hereby approved for fifty percent (50%) of the costs of developing the Plan up to a maximum amount of up to Five Hundred Thousand Dollars and zero cents (**\$500,000.00**) and the Chair is authorized to execute the same on behalf of the Authority.

DATED this ____ day of _____, 2017

Rosie Garner
Chair

ATTEST:

APPROVED AS TO FORM

Debbie Tuttle
Executive Director

Jeff Parker
Board Attorney

**NORTHGLENN URBAN RENEWAL AUTHORITY
REIMBURSEMENT AGREEMENT
(STABILIZATION AND REDEVELOPMENT PLAN)**

THIS NORTHGLENN URBAN RENEWAL AUTHORITY REIMBURSEMENT AGREEMENT (the "Agreement") is made and executed this ___ day of _____, 2017, by and between the NORTHGLENN URBAN RENEWAL AUTHORITY, a Colorado Urban Renewal Authority ("NURA"), and MP NORTHGLENN LLC, a Delaware limited liability company ("Grantee") (individually a "Party" or collectively the "Parties").

W I T N E S S E T H

WHEREAS, NURA is authorized under the provisions of Colorado's Urban Renewal Law, C.R.S. § 31-25-101, *et seq.*, to enter into agreements and provide financial incentives for the redevelopment of property to eliminate blight and to prevent the spread of slum and blight;

WHEREAS, such redevelopment may be made and encouraged by granting financial assistance to persons who reside within NURA boundaries, to businesses within the NURA boundaries, and to owners of property within NURA boundaries;

WHEREAS, it is anticipated that Grantee will purchase the majority of the property in the Northglenn Marketplace (the "Marketplace"), which is located within the boundaries of Northglenn Urban Renewal Area 1, and Grantee is in the process of planning for its stabilization and redevelopment;

WHEREAS, NURA desires to provide economic incentives to Grantee related to the redevelopment of the Marketplace to ensure that the redevelopment is successful;

WHEREAS, to ensure the redevelopment is successful, a short-term plan must be developed to stabilize the Marketplace and a long-term sustainability plan must be developed to redevelop the Marketplace, as described in more detail in **Attachment 1** (collectively the "Plan");

WHEREAS, NURA desires to reimburse Grantee fifty percent (50%) of the costs of developing the Plan up to a maximum amount of \$500,000.00 as set forth in more detail herein;

WHEREAS, without NURA's incentive, the stabilization and redevelopment of the Property would be less likely to occur;

WHEREAS, the incentive is intended to improve the Marketplace and promote a positive business environment in the City of Northglenn and in Northglenn Urban Renewal Area 1; and

WHEREAS, the incentive will further the public purpose of NURA as set forth in C.R.S. § 31-25-102.

NOW, THEREFORE, in order to promote redevelopment, fulfill NURA's urban renewal purpose as set forth in Colorado's Urban Renewal Law, C.R.S. § 31-25-101, *et seq.*, and achieve

the above-referenced goals, and in consideration of the performance of the mutual covenants and promises set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

I. REIMBURSEMENT

A. NURA agrees to reimburse Grantee fifty percent (50%) of the actual direct costs paid by Grantee for the Plan ("Actual Direct Costs") not to exceed Five Hundred Thousand Dollars (\$500,000.00), subject to the following conditions:

1. NURA is provided an opportunity to review, comment on, and approve the contracts between Grantee and the consultants performing work on the Plans;
2. NURA is named as a third-party beneficiary of such contracts, and the contracts grant NURA the right to participate in the process of developing the Plan as NURA deems appropriate in its reasonable discretion;
3. The contracts grant NURA the right to review and approve the final draft versions of the Plan and the contracts require the consultants responsible for such Plan to address NURA's comments and revise the final draft versions of the Plan until NURA has approved them;
4. The contracts are not materially breached;
5. Grantee shall provide NURA with itemized reasonably detailed invoices and financial documentation that to NURA's reasonable satisfaction confirm the Actual Direct Costs, including invoices from consultants performing work on the Plan; and
6. The Plan and all related work product and materials shall be jointly owned by NURA and the Grantee upon completion, and the contracts between Grantee and the consultants performing work on the Plans shall so state; provided that the consultants shall retain the rights to all pre-existing work. Both NURA and the Grantee shall have the right to use the Plan and all related work products and materials for business purposes.

The phrase "Actual Direct Costs" means costs invoiced to Grantee by the consultants responsible for performing work on the Plan, but shall not include internal Grantee costs, such as Grantee staff time or Grantee travel expenses related to the Plan.

B. Reimbursement to Grantee shall be payable as follows:

1. Within thirty (30) days of receipt by NURA of a fully paid invoice for Plan costs, which shall occur no more frequently than once every thirty (30) days, NURA shall pay fifty percent (50%) of the invoice amount. Payments by NURA shall be subject to the

condition that the total amount paid by NURA shall not exceed the lesser of fifty percent (50%) of the Actual Direct Costs or Five Hundred Thousand Dollars (\$500,000).

2. If the Plan has not been completed on or before November 30, 2017, NURA's obligations under this Agreement shall terminate. Any delays in completion of the Plan caused by NURA's review, comments, or delayed approval, shall extend this deadline by the length of time attributable to NURA.

II. REMEDIES

NURA's sole remedy for Grantee's breach of this Agreement shall be an action for the return of any monies paid by NURA to Grantee under this Agreement.

III. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Adams County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either Party shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement and any attached exhibits constitute the entire Agreement between Grantee and NURA, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the following addresses set forth on the first page of this Agreement.

If to NURA: Attn: Executive Director
 Northglenn Urban Renewal Authority
 11701 Community Center Drive
 Northglenn, CO 80233

Copies to: Hoffmann, Parker, Wilson & Carberry, PC
 511 16th Street, Suite 610
 Denver, Colorado 80202

If to Grantee: MP Northglenn LLC
c/o The Hutensky Group, LLC
100 Constitution Plaza, 7th Floor
Hartford, CT 06013
Attn: Brad Hutensky

Copies to: The Hutensky Group, LLC
100 Constitution Plaza, 7th Floor
Hartford, CT 06013
Attn: Legal Department

Either Party may change such notice address upon prior written notice to the other Party.

F. 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.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either Party without the written consent of the other. NURA may withhold its consent to an assignment of this Agreement in its sole discretion; provided that if a request for an assignment is made due the conveyance of ownership of the Property, NURA shall not unreasonably withhold its consent.

I. Governmental Immunity. NURA, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to NURA and its officers or employees.

J. Subject to Annual Appropriations. Any financial obligations of NURA not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of NURA hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

K. Effective Date of this Agreement. This Agreement shall become effective upon the date of Grantee's acquisition of the Property.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first set forth above.

THE NORTHGLENN URBAN RENEWAL
AUTHORITY

Rosie Garner, Chair

ATTEST:

Debbie Tuttle, Executive Director

APPROVED AS TO FORM:


Jeff Parker, NURA Attorney

MP NORTHGLENN LLC, a Delaware limited liability company

By: MP Northglenn Mezz LLC, a Delaware limited liability company, its Sole Member

By: MP Northglenn Holdings LLC, a Delaware limited liability company, its Sole Member

By: HCP RRF GP LLC, a Delaware limited liability company, its Manager

By: 
Brad M. Hutensky
Fund Manager

STATE OF Connecticut)
COLORADO) ss.
COUNTY OF Hartford)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 31ST day of August, 2017, by Brad M. Hutensky as authorized of MP Northglenn LLC. Signatory

My commission expires: 09.30.18


Notary Public

SANDRA NUNAN PALACE
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30, 2018



ATTACHMENT 1

(HCP Guiding Document – June 7, 2017)



City of Northglenn
 11701 Community Center Drive
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PHASE 1 – Short-Term Stabilization Strategy Plan

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City Manager

Sincerely,



Debbie Tuttle, CeCD
Economic Dev. Manager &
NURA Executive Director