

**RESOLUTION APPROVING ECONOMIC DEVELOPMENT INCENTIVES IN FAVOR
OF LPC REUNION LLC FOR THE ESTABLISHMENT AND OPERATION OF A
FULL-SERVICE RESTAURANT IN THE CITY OF COMMERCE CITY**

NO. 2018-70

WHEREAS, the City Council of the City of Commerce City ("City"), by Resolution No. 2014-56, adopted the Commerce City Economic Development Incentives Program ("Incentive Program"), effective January 1, 2015, and the City Council has expressed a desire to attract full-service restaurants to the City;

WHEREAS, LPC Reunion, LLC ("Business"), an affiliate of Little Pub Company, LLC, which owns and/or operates, through affiliated entities, a number of restaurant/bar establishments throughout the Denver Metro Area, has requested incentives from the City for the construction and establishment of a proposed new full-service restaurant intended to be constructed by Business and operated by an affiliated company at 104th Avenue and Chambers Road in the City;

WHEREAS, the Business will invest a substantial amount of money and undertake substantial financial risk to establish the restaurant, including purchasing land and constructing a full-service restaurant facility, but needs the City's assistance to induce the Business to purchase land, construct the facility, and open and operate in the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

1. The City Council finds and determines that granting incentives to the Business consistent with this resolution will serve a public purpose and public need and be in the public interest by establishing a full-service restaurant amenity and facility in an underserved part of the City, thereby improving the quality of life of the City's residents, creating new employment opportunities, and attracting other commercial development.
2. The City Council hereby authorizes the following incentives for the establishment of a full-service restaurant with a bar and lunch and dinner service generally at the northeast corner of 104th Avenue and Chambers Road ("Restaurant") in the City, with such incentives and conditions to be more fully set forth in an Incentive Agreement:
 - a. The abatement of eligible City-imposed fees related to development and construction of the Restaurant payable by or on behalf of the Business, specifically including development plan application fees, building permit fees, plan check fees, and civil document review fees, but specifically excluding legislatively-adopted impact fees and any fees imposed by other entities;
 - b. The rebate of non-dedicated City sales/use tax (at the 3.5% rate) payable to the City by or on behalf of the Business in connection with construction materials and facilities, fixtures, and equipment for construction of the Restaurant, funded from such taxes actually remitted to the City by or on behalf of the Business in connection with the Restaurant and subject to the verification of the payment of such taxes;
 - c. A payment of \$300,000 to be disbursed at closing for the Business's purchase of land generally at the intersection of 104th Avenue and Chambers Road for the construction

and operation of the Restaurant, provided the payment shall be secured by a contingent promise to repay recorded against the property or other guaranty of repayment acceptable to the City Manager ("Instrument"), with such repayment obligation to be conditioned and such Instrument to be releasable upon the satisfaction of the conditions set forth in Section 3, below.

3. The incentives provided to the Business, and the requirement to repay any incentives provided, under this resolution shall be expressly conditioned on the Business and Restaurant meeting the following performance terms, more clearly defined in the Incentive Agreement and subject to any provision for force majeure or other unforeseen events identified in the Incentive Agreement and a reasonable right to cure:
 - a. Business shall acquire the property, develop the property, and construct a restaurant facility on the property, and the Restaurant shall open to the public for regular operations no later than March 31, 2020; and
 - b. For three (3) years from and after the Restaurant's opening to the public for regular operations, the Restaurant shall be generally in continuous operation for six (6) days per week.
4. The City Council hereby authorizes: (a) the City Manager to negotiate and execute an Incentive Agreement and related documents with the Business consistent with this resolution, including any conditions, performance terms, remedies, and allowances for time extensions that the City Manager deems necessary and appropriate to protect the interests of the City, and (b) the City Clerk to attest to the Incentive Agreement and related documents. Such agreements and documents may be assignable, subordinated, and transferrable with the City Manager's consent.
5. The City will not be obligated to provide any incentives at any time Business owes obligations and debts to the City, whether monetary or otherwise, including, but not limited to, any and all fees, fines, taxes, assessments, penalties, judgments, liens and dedications, whether or not related to the Restaurant, and will provide incentives when such obligations and debts are satisfied.
6. The City's obligation to pay any incentive is subject to all commitments to pay any City bonds and any restrictions in such bonds. Nothing in this resolution or any Incentive Agreement shall be construed to create a multiple fiscal year debt or financial obligations to pay the incentive or reimburse taxes to any person or entity without prior City-wide voter approval. Any incentive payable in accordance with this resolution shall be subject annual appropriations that are a legislative decision of the City Council.

RESOLVED AND PASSED THIS SEPTEMBER 17, 2018.

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk