

**RESOLUTION APPROVING ECONOMIC DEVELOPMENT INCENTIVES
FOR GABE'S BURRITO GRILL & FRESH BLENDERS, LLC D/B/A G's TACOS AND
THOMPSON THRIFT DEVELOPMENT, INC. FOR THE ESTABLISHMENT AND
OPERATION OF A FULL-SERVICE RESTAURANT IN THE CITY OF COMMERCE
CITY**

NO. 2018-106

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, Gabe's Burrito Grill & Fresh Blenders, LLC d/b/a G's Tacos ("Business"), has requested incentives from the City for the construction and establishment of a proposed new full-service restaurant intended to be constructed, including tenant improvements with a restaurant-grade kitchen, by Thompson Thrift Development, Inc., or its assignee, ("Developer") and operated by the Business generally at E. 104th Avenue and Chambers Road in the City;

WHEREAS, the Developer and the Business will invest a substantial amount of money to establish the restaurant, including construction of the facility and execution of a long-term lease, but need the City's assistance to induce the Developer to construct and the Business to open and operate a restaurant 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 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 generally at the northeast corner of E. 104th Avenue and Chambers Road ("Restaurant") in the City, with such incentives and conditions to be more fully set forth in Incentive Agreements with the Developer and the Business:
 - a. *Triple-Net Lease Expenses*: For up to sixty months, the City will provide the Business incentives relative to the Business' triple-net lease expenses (consisting of real estate taxes, building insurance, and common area maintenance costs) not to exceed \$8.50 per square foot for up to 2,700 square feet. This incentive may be payable monthly upon the submission of documentation establishing the Business's obligation to make such payments. This incentive will not be subject to increase and shall not be assignable without the City's consent. The Business will use this incentive solely to pay the triple-net lease expenses for the leased location in the City.
 - b. *Facility Construction*: The City will provide the Developer an incentive of \$195,000 to be applied to the construction of the Restaurant in the City, including the design, construction, and installation of equipment for a restaurant-grade kitchen. This

incentive shall be paid as determined by the City Manager, provided fifty percent (50%) shall be payable only upon the issuance of a certificate of occupancy for the Restaurant.

3. The incentives provided to the Developer and the Business under this resolution shall be expressly conditioned on the Developer and the Business meeting the following performance terms, to be more clearly defined in the Incentive Agreements and subject to any provision for force majeure or other unforeseen events identified in the Incentive Agreements and a reasonable right to cure:
 - a. With respect to the Developer's incentives, the Developer shall construct the Restaurant facility on the property no later than March 31, 2020 and make such facility available for restaurant operations for no less than five (5) years thereafter; and
 - b. With respect to the Business's incentives, the incentives shall be subject to suspension or cancellation if the Restaurant ceases operations once commenced or fails to open the Restaurant.
4. The City Council hereby authorizes: (a) the City Manager to negotiate and execute Incentive Agreements and related documents with the Developer and 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 the Developer or the 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 DECEMBER 17, 2018.

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk