

RESOLUTION NO. 19-_____

A RESOLUTION OF THE TOWN OF ERIE URBAN RENEWAL AUTHORITY APPROVING THE TERMS OF A REIMBURSEMENT AGREEMENT BETWEEN THE TOWN OF ERIE URBAN RENEWAL AUTHORITY (“TOEURA”) AND RTR BIRDHOUSE HOLDINGS LLC (“DEVELOPER”)

WHEREAS, Developer intends to acquire the real property located at 526 Briggs, Erie, Colorado (the “**Property**”);

WHEREAS, the Property currently contains a 1,452 square foot existing commercial building (the “**Existing Building**”) and an adjacent vacant lot;

WHEREAS, Developer intends to redevelop the Property to expand the Existing Building to add approximately 3,605 square feet of additional commercial space on the vacant lot (the “**Project**”);

WHEREAS, in addition to the current office uses in the Existing Building, it is anticipated that the Project will add a restaurant user;

WHEREAS, the Town approved the Historic Old Town Urban Renewal Plan on November 12, 2013 (the “**Urban Renewal Plan**”)

WHEREAS, the Property is located within the Urban Renewal Plan boundaries;

WHEREAS, the Urban Renewal Plan has authorized a TIF District (as defined in the Urban Renewal Plan) (the “**TIF District**”) that permits the collection of property tax increment and sales tax increment by TOEURA within the TIF District;

WHEREAS, the Property is located within the TIF District;

WHEREAS, Developer has submitted to TOEURA a proforma for the Project (the “**Proforma**”) that estimates a cumulative sales tax increment revenue over a period of the initial seven (7) years of the Project to TOEURA from the expected restaurant tenant of the Project to be \$466,678.00;

WHEREAS, the Proforma estimates the creation of incremental property tax revenue during the initial seven (7) years of the Project to TOEURA, resulting from the improved Property and conversion of a portion of the Property from vacant land to commercial use, of approximately \$282,764.09.

WHEREAS, the Proforma demonstrates a need in the amount of \$420,000.00 to supplement market rental rates in order for the Project to be sufficiently viable to ensure its execution;

WHEREAS, pursuant to Section 6.12 of the Urban Renewal Plan, TOEURA is “authorized to enter into Redevelopment/Development Agreements or other contracts with developer(s) or property owners or such other individuals or entities as determined by [TOEURA] to be necessary or desirable to carry out the purposes of [the Urban Renewal Plan]. Such Redevelopment/Development Agreements, or other contracts, may contain such terms and provisions as shall be deemed necessary or appropriate by [TOEURA] for the purpose of undertaking the activities contemplated by [the Urban Renewal Plan] and allowed for under the Act. [TOEURA] may further provide for such undertakings, including financial assistance, as may be necessary for achievement of the objectives stated [in the Urban Renewal Plan] or as otherwise may be authorized by the Act.”

WHEREAS, as provided in Section 3.0 of the Urban Renewal Plan, the purpose of the Urban Renewal Plan is to “reduce, eliminate and prevent the spread of blight within the Area by stimulating growth and investment within its boundaries” and to “advance the vision and priorities of the Town of Erie Comprehensive Plan.”

WHEREAS, execution of the Project will remediate one or more blighted conditions identified in the Urban Renewal Plan largely through private investment, as envisioned by the Title 31, Article 25, Part 1, C.R.S., (the “**Act**”).

WHEREAS, pursuant to the Act and the Urban Renewal Plan, TOEURA is authorized to enter into a reimbursement agreement with the Developer to remit either or both of the sales tax increment revenue and the property tax increment revenue generated by the Project or the Property to further the implementation of the Urban Renewal Plan;

WHEREAS, the Developer has requested approval of a sales tax increment rebate in the amount of \$420,000.00 during a seven (7) year period after the Project is completed, to be paid solely from revenue generated within the boundaries of the Property, on the terms and conditions set forth in the term sheet presented to TOEURA (the “**Term Sheet**”), attached hereto as *Exhibit A*;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE TOWN OF ERIE URBAN RENEWAL AUTHORITY AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein by this reference.

Section 2. TOEURA hereby finds that approval of the reimbursement request as set forth in the Term Sheet is in the best interest of TOEURA, to further implementation of the Urban Renewal Plan, and necessary for the preservation of the public health, safety, and welfare.

Section 3. TOEURA has duly considered and hereby approves the Term Sheet, authorizes the Chairman to execute the Term Sheet, authorizes the TOEURA staff to negotiate and finalize the reimbursement agreement on the terms and conditions set forth in the Term Sheet to be executed by TOEURA in accordance with and pursuant to the Term Sheet (“**Reimbursement Agreement**”), and authorizes the Reimbursement Agreement that has been reviewed and approved by TOEURA’s legal counsel to be set for final approval by TOEURA on the consent agenda.

Section 4. This Resolution shall be effective February 12, 2019.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Town of Erie Urban Renewal Authority, held on February 12, 2019.

TOWN OF ERIE URBAN RENEWAL
AUTHORITY

BY: _____
_____, Chairman

ATTEST:

_____, Secretary

EXHIBIT A

**Reimbursement Agreement Term Sheet (the “Term Sheet”)
526 Briggs Street
Erie, Colorado
Historic Old Town Urban Renewal Authority (the “Plan”)
Date: February 12, 2019**

Parties to the Agreement	Town of Erie Urban Renewal Authority (“ <u>TOEURA</u> ”) and RTR BIRDHOUSE HOLDINGS LLC, a Colorado limited liability company (“ <u>Developer</u> ”).
Property	A parcel of land located within the TOEURA boundary and within the Plan at 526 Briggs Street, Erie, Colorado (“ <u>Property</u> ”).
Existing Site Conditions	The current site consists of a one-story commercial building and a vacant lot that will be constructed upon to add additional commercial space.
Project	Developer intends to construct a one-story commercial building containing approximately 3,605 square feet of rentable space (the “ <u>Project</u> ”). The new construction will consist of one unit that is intended to be rented by a restaurant.
Effective Date	Agreement effective upon agreement execution by TOEURA and Developer (“ <u>Effective Date</u> ”).
Term of Agreement	Agreement terminates seven (7) years after the issuance of a certificate of occupancy for the Project (“ <u>TIF Period</u> ”).
Payment of Legal Fees	Developer agrees to pay a retainer of \$3,000.00 at the time of Term Sheet acceptance, and shall cover any additional legal fees incurred by TOEURA beyond a single round of negotiations using TOEURA’s standard agreement.
Sales Tax Increment	TOEURA agrees to share back with Developer 100% of the net sales tax increment (“ <u>Sales Tax Increment</u> ”) generated by and attributable to the sale tax generating portion of the Property for the TIF Period (“ <u>Sales Tax Increment Rebate</u> ”), up to a total Sales Tax Increment Rebate of \$420,000.00 (the “ <u>Cap</u> ”). The amount of the Sales Tax Increment Rebate shall be calculated by subtracting the sales taxes generated annually at the Property as of the Effective Date from the total sales taxes generated annually at the Property for each year following the Effective Date, less an annual administrative fee of 5% of the total increment in the first 7 years of the agreement, and 2.5% for the remaining years to be paid to TOEURA. Developer shall only be

	eligible to receive a rebate of taxes in the actual amount paid to TOEURA.
Estimate of Sales Tax Increment and Not to Exceed	The Parties estimate an annual Sales Tax Increment Rebate payment of approximately \$60,000.00, with the Sales Tax Increment Rebate reaching the Cap seven (7) years after the issuance of a certificate of occupancy for the Project. The Parties agree that the total Sales Tax Increment received by Developer from TOEURA will not exceed the Cap.
Requirement that TOEURA Have Available Increment	TOEURA is only obligated to pay the Sales Tax Increment Rebate in years that it receives increment in an amount equal to or greater than Developer's Sales Tax Increment for said property.
Submittal of Taxes Paid	The Sales Tax Increment Rebate will be calculated and remitted only after Developer demonstrates proof of its tax bill and payment of its taxes.
Protest or Abatements	Developer agrees that it will not protest the applicable county Assessor's valuation of the Property, nor will Developer seek abatement of the Property's property tax for the Term of the Agreement. Such obligation will run with the land and be binding upon subsequent purchasers of the property.
Construction Milestones	Developer agrees to commence construction by February 1, 2020 and will complete construction as evidenced by receipt of a certificate of occupancy by February 1, 2022.
Project Completion	The Project shall be considered complete and eligible for payment of the Sales Tax Increment Rebate upon issuance of a Certificate of Occupancy from the Town of Erie, and upon TOEURA's receipt of written confirmation that the Project is not in default, or, with the giving of notice or lapse of time, will be in default, pursuant to any Project financing.
Transfer or Assignment	Developer may not transfer or assign its Sales Tax Increment or any other rights under this Agreement without consent from TOEURA, which consent shall not be unreasonably withheld.
Successors	Agreement will be binding on Developer's successors and assigns.
Right to Return	TOEURA understands that Developer retains the right to return to the TOEURA with an application for tax increment on additional projects and parcels.

Named Insured	Developer agrees to add TOEURA as a named insured on insurance policy(ies) related to the Project for the duration of the reimbursement agreement.
Use Covenant	The Agreement will contain a use covenant for the Project that will be recorded in the real property records for the Property and run with the land. The use covenant will expire no less than 7 years from the Effective Date. The use restriction will require at least 3,000 sq. ft. of the improvements on the Property to be used on a continual basis for either restaurant or retail use, with this minimum use square footage having a go-dark period of no more than ninety (90) days.
Prior Tenant Approval	Developer agrees that any tenant of the Project must be approved by TOEURA prior to entering into a lease for any portion of the Project for a period of 10 years after the Effective Date or upon Sales Tax Increment received by Developer reaching the Cap, whichever occurs first. TOEURA may approve or deny a tenant for the Project in its sole discretion. Tenants that sign a letter of intent for the Property prior to the Effective Date may receive prior approval of such Tenant from TOEURA as part of the Agreement.
Miscellaneous	The Agreement will contain industry-standard boiler plate regarding representations and warranties, default and remedies, and similar issues.

The contents of this Term Sheet and the Agreement are subject to the approval by the TOEURA Board of Commissioners and shall not be binding upon TOEURA without such approval.

TOEURA:

TOWN OF ERIE URBAN
RENEWAL AUTHORITY

By: _____
Malcolm Fleming
Executive Director

DEVELOPER:

RTR BIRDHOUSE HOLDINGS LLC,
a Colorado limited liability company

By: _____
Name: Scott Skiba
Title: Manager