

CITY OF WHEAT RIDGE, COLORADO  
RESOLUTION NO. 30

Series of 2016

**TITLE:** A RESOLUTION APPROVING AN AGREEMENT WITH US RETAIL PARTNERS LLC, PROVIDING FOR THE DESIGN AND CONSTRUCTION OF A TRAFFIC SIGNAL AT THE INTERSECTION OF 32<sup>ND</sup> AVENUE AND XENON STREET

**WHEREAS**, the City of Wheat Ridge, Colorado, acting through its City Council is a home rule municipality with statutory and constitutional authority to enact and enter into agreements for protection of the public health, safety and welfare; and

**WHEREAS**, the intersection of 32<sup>nd</sup> Avenue and Xenon Street serves as the entryway to commercial property that generates significant traffic, in addition to through traffic on 32<sup>nd</sup> Avenue, and;

**WHEREAS**, current and projected traffic volumes at this intersection warrant the installation of a traffic signal in accordance with state and federal warrant guidelines, and;

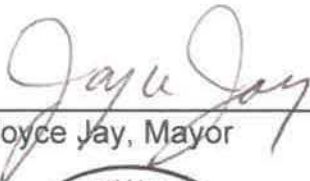
**WHEREAS**, the City of Wheat Ridge and the Owner of the commercial property (US Retail Partners LLC) agree that a traffic signal should be installed at this intersection, and agree to share the costs for the design and installation of the signal in accordance with the "Agreement for Design and Installation of Traffic Signal" (Attachment 1); and

**WHEREAS**, the Wheat Ridge Home Rule Charter authorizes the Council, acting by resolution or ordinance, to enter into contracts or agreements with other entities;

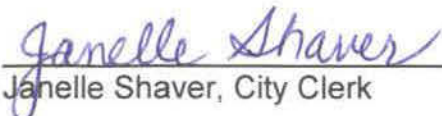
**NOW, THEREFORE, BE IT RESOLVED** by the Wheat Ridge City Council, that:

The attached Agreement between the City of Wheat Ridge and US Retail Partners, LLC is hereby approved. The Mayor and City Clerk are authorized to execute the same.

**DONE AND RESOLVED** this 22<sup>nd</sup> day of August, 2016.

  
\_\_\_\_\_  
Joyce Jay, Mayor

ATTEST:

  
\_\_\_\_\_  
Janelle Shaver, City Clerk



## AGREEMENT FOR DESIGN AND INSTALLATION OF TRAFFIC SIGNAL

THIS AGREEMENT is made and entered into as of the 22<sup>nd</sup> day of August, 2016, by and between the City of Wheat Ridge, Colorado a Colorado municipal corporation whose address is 7500 W. 29th Ave., Wheat Ridge, CO 80033 (the "City"), and US Retail Partners LLC, , a Delaware limited liability company, whose address is care of: Regency Centers, 8480 E. Orchard Rd., Suite 6900 Greenwood Village, CO 80111 ("Property Owner"), together referred to as the "parties."

### RECITALS

- A. The City operates and maintains the public street system within the City's municipal boundaries, including 32nd Avenue.
- B. Property Owner operates and maintains the Applewood Shopping Center, generally located north of West 32nd Avenue and east of Youngfield Street, wholly within the corporate boundaries of the City.
- C. The City and Property Owner acknowledge that the Applewood Shopping Center is a regional retail shopping center with many businesses providing goods and services to the citizens of the City of Wheat Ridge and thousands of additional customers; and such goods and services provide a valuable source of sales tax revenues to the City of Wheat Ridge to fund important municipal services to its citizens.
- D. The City and Property Owner acknowledge that Property Owner benefits from proper and effective traffic circulation and ingress and egress to the shopping center from City streets, including West 32nd Avenue.
- E. The City and Property Owner have agreed that a new traffic signal at the intersection of W. 32nd Avenue and Xenon Street is required and will serve both Property Owner's business tenant's needs and those of the general public.
- F. Property Owner and the City have agreed to share the costs of installation of the traffic signal in the manner described in this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the sufficiency of which is acknowledged and confessed, the parties agree as follows:

1. Design and Installation of Traffic Signal. The City will engage in a bid process to design and construct a full movement traffic signal at the intersection of West 32nd Avenue and Xenon Street (the "traffic signal"). In addition to bidding the project, the City will manage the installation of the traffic signal.
2. Cost-sharing. The parties anticipate that the cost of design and installation of the traffic signal will be approximately \$250,000. The parties agree that City will be responsible for 100% of the design cost, including the preparation of plans and specifications for bidding and construction. The construction cost will be split between Property Owner and the City in accordance with the attached Exhibit A. Property Owner will be entitled to a credit as described in Paragraph 4 below and in accordance with the attached Exhibit B. The City will complete and pay for the installation of the traffic signal, and upon completion of that project, shall invoice

Property Owner for its share, less the credit described in Paragraph 4 below. Property Owner shall pay that invoice within thirty (30) days of its receipt of the same. In the event the total project cost should exceed \$250,000, the City and the Property Owner shall evenly split (50% each) the excess cost. In the event additional easements (temporary or permanent) may be needed from property owned by Property Owner to install the traffic signal, such easements shall be granted at no cost to the City. Should easements be required from any other private properties, any easement costs (temporary or permanent) shall be shared equally between Property Owner and the City, at 50% each. In the event the Property Owner shall fail to pay the required amounts to the City, the City may certify the same to the Jefferson County Treasurer for collection in the same manner as real property taxes, or may collect the same in any other manner allowed by law.

3. The City shall assume responsibility for maintenance and power costs for the signal.

4. 32nd Avenue ROW Taking & Parking Reconfiguration: Credit. The parties agree that the proposed Wells Fargo Bank parking lot modifications will not be constructed, and that the estimated costs of those modifications (which the parties agree is \$58,500) will become a credit to be applied to Regency's cost obligation for design and installation of the traffic signal. The City shall reflect this \$58,500 credit on the invoice delivered to Regency following installation of the traffic signal, all as described in Paragraph 2 above.

5. Compliance with Colorado Constitution. The parties acknowledge that the City is subject to Article X, Section 20 of the Colorado Constitution, and that this Agreement does not constitute a multi-year fiscal obligation of the City. All financial obligations of the City contained herein are subject to annual appropriation of funds for that purpose. In the event the City shall fail to make sufficient appropriations of funds to satisfy its obligations under this Agreement in any year, such nonappropriation shall constitute grounds for immediate termination, and both parties shall be relieved of any further obligation hereunder.

6. This Agreement shall run to the benefit of and bind successors and assigns of the parties hereto.

7. This agreement shall be construed pursuant to the laws of the state of Colorado. Jurisdiction and venue for any litigation arising under this agreement shall be proper and exclusive in the District Court for Jefferson County, Colorado.

IN WITNESS WHEREOF the parties have executed this agreement on the dates set forth below.

CITY OF WHEAT RIDE, COLORADO

By:   
Joyce Jay, Mayor

ATTESTED:



Janelle Shaver, City Clerk



U.S. RETAIL PARTNERS, LLC,

a Delaware limited liability company

By: U.S. Retail Partners Holding, LLC,  
a Delaware limited liability company, its sole member

By: GRI-Regency, LLC, a Delaware limited  
liability company, its sole member

By: Regency Centers, L.P.,  
a Delaware limited partnership, its managing member

By: Regency Centers Corporation,  
a Florida corporation, its general partner

By: \_\_\_\_\_  
Name: William Damrath  
Title: Vice President, Market Officer

ATTEST:

\_\_\_\_\_

STATE OF COLORADO )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing Agreement for Design and Installation of Traffic Signal was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2016, by William Damrath, as Vice President, Market Officer for and on behalf of said Property Owner.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

## EXHIBIT A

### 32nd Ave Traffic Signal - Applewood Village

<u>Item</u>	<u>Amount</u>	<u>City Share</u>	<u>City %</u>	<u>Regency Share</u>	<u>Regency %</u>
Traffic Study	\$ 15,325	\$ -	0%	\$ 15,325	100%
Design Proposal	\$ 17,000	\$ 17,000	100%	\$ -	0%
<u>Installation</u>	<u>\$ 225,000</u>	<u>\$ 135,000</u>	<u>60%</u>	<u>\$ 90,000</u>	<u>40%</u>
<b>Total</b>	<b>\$ 257,325</b>	<b>\$ 152,000</b>		<b>\$ 105,325</b>	
City Reimbursement of 32nd Ave Taking		<u>\$ 58,500</u>		<u>\$ (58,500)</u>	
<b>TOTAL</b>		<b>\$ 210,500</b>		<b>\$ 46,825</b>	

## EXHIBIT B

32<sup>nd</sup> Avenue Right of Way Dedication; Credit. During the 2013 construction improvements by the City to 32<sup>nd</sup> Avenue along the Applewood Village property, the City required additional Right of Way (ROW) from the Property Owner to facilitate the widening of the roadway. This additional ROW for 32<sup>nd</sup> Avenue resulted in the loss of approximately 10 parking spaces on the Applewood Village Shopping Center property. In lieu of the City acquiring the required ROW at fair market value, the Property Owner agreed to dedicate ROW, provided that the City agreed to construct parking spaces nearby on the Property Owner's property to replace the parking spaces eliminated by the City's 32<sup>nd</sup> Avenue ROW expansion. The parties further agreed that the estimated cost to the City of constructing these parking spaces was approximately \$58,500 in 2013 and that the Property Owner could elect to accept \$58,500 as cash-in-lieu of the City completing such work or defer such payment as a credit against future financial obligations between the Property Owner and City.