

DEVELOPMENT/REDEVELOPMENT AGREEMENT

2805 PRINTERS WAY, 768 HILARIA AVENUE 773 HORIZON DRIVE (ALSO IDENTIFIED AS/WITH MESA COUNTY TAX PARCEL NUMBER 2705-312-03-002), GRAND JUNCTION, COLORADO

This DEVELOPMENT/REDEVELOPMENT AGREEMENT (this “**Agreement**”) dated as of ____, 2023 (“**Effective Date**”), is made by and among APR Grand Junction 3 LLC, a Nebraska limited liability company, or its successors and assigns permitted in accordance with Paragraph __ (“**Developer**”) and the CITY OF GRAND JUNCTION, a Colorado Home Rule municipal corporation (“**City**”). The Developer and the City are sometimes collectively called the “**Parties**,” and individually, a “**Party**.”

RECITALS

WHEREAS, Developer is the owner of certain real property known as 2805 Printers Way, 768 Hilaria Avenue and 773 Horizon Drive (the Property identified as/with Mesa County Tax Parcel number 2705-312-03-002) Grand Junction, Colorado, and as described and depicted in Exhibit A, attached hereto (hereinafter known as the “**Property**”); and,

WHEREAS, Developer has applied to the City for an Infill Incentive pursuant to Resolution 74-22, and such application is attached hereto as Exhibit B (the “**Infill Incentive Application**”); and,

WHEREAS, consistent with the City’s Comprehensive Plan and Resolution 74-22 the City has established and adopted an area within the community known as the *Corridor Infill Boundary Area* and certain *Corridor Infill Policies* which the City has identified property conditions that warrant support to stimulate reinvestment; and,

WHEREAS, the Property is also located within the Infill Boundary Area; and

WHEREAS, the Developer intends to redevelop the Property as a multi-family residential project, featuring at least 168 residential units, together with related amenities (collectively, the “**Project**”); and

WHEREAS, the Developer has outlined a preliminary financing plan (the “**Preliminary Financing Plan**”) and such plan is attached hereto as Exhibit C (the “**Preliminary Financing Plan**”), which evidences to the City that the Developer has the financial capacity to undertake the Project; and,

WHEREAS, construction of the Project will ensure the availability of housing to area residents, and will provide a dense population of customers for the surrounding businesses, and maximize the efficient provision of infrastructure and public services; and,

WHEREAS, the City Community Development Department has reviewed the conceptual plans for the Project attached hereto as Exhibit D (the “**Conceptual Plans**”), and determined the

Project is substantially consistent with the City's Zoning and Development Code and will further stated goals and policies of the City's 2020 One Grand Junction Comprehensive Plan; and,

WHEREAS, the Parties acknowledge that the final design of the Project will be subject to the City's entitlement and permitting process; and

WHEREAS, the City Council has determined that the acquisition, construction, and installation of the Project will serve a public purpose and contribute to the redevelopment of the City.

NOW, THEREFORE, the Parties hereto, for themselves, their permitted successors, and assigns, in and for valuable consideration, including but not limited to, the performance of the mutual covenants and promises set forth herein, the receipt and adequacy of which are hereby acknowledged, do hereby covenant, and agree as follows:

DEFINITIONS

1. **"Code"** or **"GJMC"** means the zoning and development regulation of the City in effect as of the date of the application for the Project.
2. **"Commence"** **"Commenced"** or **"Commencement"** means the beginning of on-site physical construction of the Project, including without limitation demolition of existing structures.
3. **"Complete"** **"Completed"** or **"Completion"** means issuance of temporary or final certificates of occupancy for all buildings within the Project.
4. **"Conceptual Plans"** are/consists of the documents marked and attached to this agreement as Exhibit D.
5. **"Fees"** means fees imposed by the City with respect to the development of the Project, including, without limitation, any City application fees, impact fees (*e.g.*, Parks & Recreation, Fire, Traffic, Park Dedication, *etc.*), development review fees, fees imposed as a condition to the issuance of a City Planning Clearance or other permit, tap fees, and City sales and use tax charged for materials used in construction of the Project.
6. **"Fee Cap"** means \$1,529,974
7. **"Preliminary Financing Plan"** is attached to this agreement as Exhibit C.
8. **"Project"** has the meaning assigned to such term in the Recitals.
9. **"Property"** the real property that is depicted and described in Exhibit A hereto.

AGREEMENT

1. Waiver of Fees. In consideration of the terms of this Agreement, the City hereby waives, and/or shall cause the payment of Fees, not to exceed the Fee Cap as provided herein.

2. Development Deadlines.

a. Notwithstanding anything to the contrary in this Agreement: (i) Developer shall have no obligation to construct all or any portion of the Project, or to timely Commence or Complete the Project; (ii) Developer may, in its sole discretion, elect to undertake none, all, or only certain phases of the Project, and to Commence and Complete the Project at any time; and (iii) if the Developer elects to undertake all or any portion of the Project, Developer acknowledges that the Project will be subject to the City's entitlement and permitting process. If, subject to Paragraph 21 below, Developer fails to Commence the Project on or before the date that is three (3) calendar months after Developer receives site plan approval from the City ("**Commencement Deadline**"), or thereafter, fails to Complete the Project within twenty-three (23) calendar months after the date of Commencement ("**Completion Deadline**"), then Developer shall neither be entitled to receive a waiver of, nor shall the City be obligated to pay on behalf of the Developer or any successor(s) or assign(s), any Fees, regardless of whether the Fees accrue or accrued prior to or after expiration of the Commencement Deadline or the Completion Deadline, as applicable.

b. Notwithstanding the foregoing, Developer may request an extension of either the Commencement Deadline and/or the Completion Deadline by delivering a written request for the same to the City Manager to schedule for consideration by the City Council at the next scheduled City Council meeting. Any extension may be granted only with prior City Council approval.

3. Terms and Conditions of Agreement, Default: In the event a Party fails or refuses to perform according to the terms of this Agreement, that Party shall be declared in default. In the event of a default, the defaulting Party is permitted thirty (30) calendar days to cure said default after receipt of Notice consistent with this Agreement. In the event a default remains uncured after the 30-day period, the Party declaring default may:

a. Terminate the Agreement; or

b. Bring an action for its actual damages, injunction, specific performance, and/or for mandamus (including without limitation to enforce a current annual appropriation made to pay an amount due or owing hereunder) or other appropriate equitable remedy.

The foregoing remedies shall be cumulative and shall be the sole and exclusive remedies for a default of this Agreement, and all other remedies are hereby waived. In the event the default causes the other Party not in default to commence legal or equitable action against the defaulting Party, the defaulting Party will be liable to the non-defaulting Party for the costs incurred by reason of the default, including reasonable attorneys' fees and costs. Except as provided in this Paragraph 3,

no Party shall be entitled to recover or claim damages for an event of default by the defaulting Party, including, without limitation, lost profits, economic damages, or actual, direct, incidental, consequential, exemplary, or punitive damages for any other Party's breach of this Agreement.

4. No Waiver of Grand Junction Municipal Code ("Code"): Except for the express incentives offered by the City as stated herein, this Agreement does not waive any part or provision of the Code.

5. Governmental Immunity: The Parties agree that the City, in entering this Agreement, does not waive governmental immunity as described in C.R.S. 24-10-101, *et seq.* No part of this Agreement shall be deemed to create a waiver of immunity as defined therein or by case law construing the law.

6. Service of Notices: All notices required or permitted pursuant to this Agreement must be made in writing and delivered in person, by prepaid overnight express mail or overnight courier service, or by certified mail or registered mail, postage prepaid return receipt requested, or by e-mail, to the other Parties' authorized representatives (or their successors) as identified herein at the addresses listed below. All notices shall be deemed effective when actually delivered as documented in a delivery receipt, or, if delivered by e-mail, as documented in a delivery or read receipt, whichever is earlier; provided, however, that if the notice is affirmatively refused or cannot be delivered during customary business hours by reason of (a) the absence of a signatory to acknowledge receipt, or (b) a change of address with respect to which the addressor had neither actual knowledge nor written notice delivered in accordance with this section, then the first attempted delivery shall be deemed to constitute delivery.

For the City: City Manager
 City of Grand Junction
 Attention: Greg Caton
 250 North 5th Street
 Grand Junction, CO 81501
 Email: gregc@gjcity.org

With copy to: City Attorney
 City of Grand Junction
 Attention: John Shaver
 250 North 5th Street
 Grand Junction, CO 81501
 Email: johns@gjcity.org

For Developer: APR Grand Junction 3 LLC
 9200 Andermatt Drive
 Lincoln, NE, 68526

7. Severability: If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the rest of that provision and of this Agreement will remain enforceable to the fullest extent permitted by law.

8. Venue and Governing Law: This Agreement shall be governed by and construed according to the laws of the State of Colorado. Venue for all actions regarding this Agreement shall be in Mesa County, Colorado.

9. Assignment:

a. Neither the City nor the Developer shall assign any rights or obligations under this Agreement without the prior written consent of the other Party except as follows.

b. Prior to Completion, Developer may assign, pledge, collaterally assign, or otherwise encumber all or any part of this Agreement, including without limitation its right to receive any payment or reimbursement, without any Party's consent, but after written notice to the City containing the name and address of the assignee, to: (i) any lender or other party that provides acquisition, construction, working capital, tenant improvement, or other financing to Developer in connection with the Project or acquisition or ownership of the Property as collateral or security for such financing; or (ii) one or more subsidiaries, parent companies, special purpose entities, affiliates controlled by or under common control or ownership with Developer, or joint venture entities formed by Developer or with its investors or partners to develop, own, and/or operate all or a portion of the Property or of the improvements to be constructed thereon (each assignee in (i) and (ii) being a "**Permitted Assignee**").

c. After Completion, Developer shall have the right to assign all or any portion of this Agreement to a purchaser of all or a portion of the Property without the written consent of the other Parties but shall provide written notice to the City containing the name and address of the assignee within 5 business days of such conveyance and assignment.

d. If consent is required, it shall not be unreasonably withheld, delayed, or conditioned.

e. The restrictions on assignment contained in this Agreement apply only to a potential assignment of all or a portion of the rights and obligations pursuant to this Agreement and shall not be interpreted to restrict in any way the conveyance of one or more interests in all or a portion of the Property which is the subject of this Agreement.

f. Nothing in this Agreement modifies or waives the obligations or responsibilities of either Developer or Developer's assignee under the Code and other applicable law, rule or regulation.

g. No assignment of this Agreement by Developer, whether or not such assignment requires the consent of the City, shall relieve Developer of its obligations contained within this Agreement. Any purported assignment that does not comply with this provision is void. This Agreement is binding and inures to the benefit of the parties and their respective permitted

successors and assigns, subject to this Paragraph 9.

10. No Third-Party Beneficiaries: It is expressly understood and agreed that the terms and enforcement of the terms of this Agreement, and all rights of action relating to enforcement, are strictly reserved to the Parties. Nothing in this Agreement shall give or allow any claim or cause of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned Parties that no person or entity, other than the Parties hereto, receiving services or benefits under this Agreement shall be deemed any more than an incidental beneficiary only.

11. Modifications and Amendments: This Agreement shall not be modified, revoked, or amended except by written agreement signed by all Parties.

12. Counterparts: This Agreement may be executed in counterpart originals, each of which shall be deemed an original, and each of which shall be deemed to constitute one and the same Agreement. Additionally, a copy of an executed original Agreement signed by a Party hereto and transmitted by electronic mail shall be deemed an original, and any Party hereto is entitled to rely on the validity, authenticity, and authority of an original transmitted by electronic mail.

13. Nonliability of Officials, Agents, Members, and Employees. Except for willful or wanton actions, no trustee, board member, commissioner, official, employee, consultant, manager, member, shareholder, attorney, or agent of any Party, will be personally liable under this Agreement, or in the event of any default, or for any amount that may become due to any Party.

14. Cooperation Regarding Defense. In the event of any litigation or other legal challenge involving this Agreement or the ability of any Party to enter into this Agreement that is not brought by a Party, the Parties will cooperate and subject to a mutually acceptable joint defense agreement jointly defend against such action or challenge, to the extent permitted by law.

15. Additional Documents or Actions. The Parties agree to execute any reasonable additional documents or take any reasonable additional action, including but not limited to estoppel certificates requested or required by lenders or purchasers of the Property, that are: (a) reasonably necessary to carry out this Agreement, (b) reasonably requested by any Party to confirm or clarify the intent of the provisions of this Agreement or the status of the Agreement and the Parties' actions hereunder, or (c) are reasonably necessary to effectuate the agreements and the intent of this Agreement. If all or any portion of this Agreement, or other agreements approved in connection with this Agreement, are asserted or determined to be invalid, illegal, or are otherwise precluded, the Parties will use reasonable, diligent, good faith efforts to amend, reform, or replace such invalid, illegal, or precluded items to assure, to the extent legally permissible, that each Party substantially receives the benefits that it would have received under this Agreement.

16. Waiver of Breach. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and will not operate or be construed as a waiver of any subsequent breach by any Party.

17. Binding Effect; Entire Agreement. This Agreement will inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph permits the assignment of this Agreement except as set forth in Paragraph 9. This Agreement represents the entire Agreement among the Parties with respect to the subject matter hereof and supersedes any prior written or oral agreements or understandings with regard to the subject matter of this Agreement.

18. Days. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to §24-11-101(1), C.R.S., such day will be extended until the next day that is not one of the foregoing days.

19. Recording. The Parties will execute and acknowledge a memorandum of this Agreement, in form and substance attached hereto as Exhibit E, which will be recorded in the real property records of Mesa County, Colorado.

20. Good Faith of Parties. In the performance of this Agreement or in considering any requested approval, consent, acceptance, or extension of time, the Parties agree that each will act in good faith.

21. Parties Not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties will not be deemed to be partners or joint venturers, and no Party is responsible for any debt or liability of any other Party.

22. Force Majeure. If a Force Majeure Event occurs, the deadline for performance of any obligations affected by such Force Majeure Event shall be automatically extended for a period equal to the duration of such Force Majeure Event and Developer shall be excused from the performance of such obligations during such period. "Force Majeure Event" means any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, adversely affects the Developer's performance of an obligation pursuant to this Agreement: fire, earthquake, storm or other casualty; strikes, lockouts, or other labor interruptions or shortages; COVID-19 and other pandemics or epidemics; war, rebellion, riots, acts of terrorism, or other civil unrest; acts of Nature; disruption to local, national, or international transport services; prolonged shortages of materials or equipment; severe adverse weather; the discovery of previously unknown facilities, improvements, or other features or characteristics of the Property; delays in the demolition of existing structures, including without limitation delays related to the remediation or removal of asbestos or other hazardous materials; Entitlement Delays; Material Litigation; and any other event, similar or dissimilar to the above, whether foreseeable or unforeseeable, known or unknown, that is beyond the Developer's reasonable control. Without in any way obligating the City to provide comments within any specific time period, if the City takes longer than twenty-one (21) days after receipt of any complete application for approval any site plan, plat, or other approval, entitlement, or permit for the Project, or any resubmission of the same, to provide Developer with a complete set of comments from each City agency, department, and referral agency on such application or resubmission, each day after such twenty-one (21) day period shall constitute "**Entitlement Delays**". "**Material Litigation**" includes litigation, appeals, and

administrative actions related to the entitlement, permitting, development, financing, or construction of the Project, including without limitation claims brought pursuant to C.R.C.P. § 106(a)(4) to the extent not initiated by the Developer, and any litigation brought by Developer against the City arising out of or related to this Agreement or performance of the obligations set forth herein, but only if such litigation, appeal, or administrative action delays development of the Project for a period of more than five consecutive business days.

23. Estoppel Certificates. The City, at any time and from time to time upon not less than ten (10) business days' prior written notice from Developer, agrees to execute and deliver to Developer an estoppel certification in the form attached as Exhibit F, which form is acceptable to the Developer and the City.

24. Representations and Warranties

a. Developer represents and warrants to the City that the following statements are true as of the Effective Date:

i. ***No Litigation.*** There is no pending or, to Developer's actual knowledge, threatened litigation or claim against the Project or the Developer related to the Project that would prohibit Developer from performing its obligations in this Agreement or render this Agreement invalid.

ii. ***Authorization.*** Developer has all requisite power and authority to perform its obligations under this Agreement and the execution, delivery, and is duly and validly authorized to execute, enter into, and perform the obligation set forth in this Agreement. Each person executing and delivering this Agreement and all documents to be executed and delivered in regard to the consummation of the transaction herein has due and proper authority to execute and deliver those documents. This Agreement and all documents executed and delivered by Developer in connection with the transaction herein shall constitute valid and binding obligations of Developer, enforceable against Developer in accordance with the terms of this Agreement. The Preliminary Financing Plan may be in the form of a loan commitment and be based on the project budget reviewed and approved by the lender issuing the loan commitment.

iii. ***Organization of Developer.*** Developer is a duly organized and validly existing limited liability company under the laws of the State of Nebraska and with full power to enter into and to perform its obligations under this Agreement.

iv. ***No Breach or Prohibition.*** To Developer's actual knowledge, the transactions contemplated by this Agreement are not restrained or prohibited by any injunction, order or judgment rendered by any court or other governmental agency of competent jurisdiction against Developer. To Developer's actual knowledge, neither the execution and delivery of the Agreement, nor the consummation of the transactions contemplated hereby, will (a) be in violation of

any agreements to which Developer is a party, or (b) conflict with or result in the breach or violation of any laws applicable to Developer or the Project.

b. The City represents and warrants to Developer that the following statements are true as of the Effective Date:

i. **No Litigation.** There is no pending or, to the City's actual knowledge, threatened litigation or claim against the City that would prohibit the City from performing its obligations in this Agreement or render this Agreement invalid.

ii. **Organization.** The City is a home rule municipal corporation organized under the constitution and laws of the State of Colorado, validly existing under the laws of the State of Colorado and has the power and authority to transact the business in which it is engaged.

iii. **Authority.** All governmental proceedings required to be taken on the part of the City to execute and deliver this Agreement and to consummate the transactions contemplated hereby have been duly and validly taken under the Grand Junction Municipal Charter provisions, subject to any referendum rights set forth in Article XVI Section 136 of such Grand Junction Municipal Charter. Each person executing and delivering this Agreement and all documents to be executed and delivered in regard to the consummation of the transaction herein has due and proper authority to execute and deliver those documents. This Agreement and all documents executed and delivered by the City in connection with the transaction herein shall constitute valid and binding obligations of the City, enforceable against the City in accordance with their terms.

iv. **No Breach or Prohibition.** To the City's actual knowledge, the transactions contemplated by this Agreement are not restrained or prohibited by any injunction, order or judgment rendered by any court or other governmental agency of competent jurisdiction against the City. To the City's actual knowledge, neither the execution and delivery of the Agreement, nor the consummation of the transactions contemplated hereby, will (a) be in violation of any agreements to which the City is a party, or (b) conflict with or result in the breach or violation of any laws applicable to the City or the Project.

The Parties hereby agree to the same and execute this Agreement by their duly authorized representatives as follows:

City of Grand Junction, Colorado

Mayor

City Clerk

Date

Developer

APR Grand Junction 3 LLC
a Nebraska limited liability company

By:
its Manager

DRAFT

Approved as to Substance:

City Manager

Approved as to Legal Form:

City Attorney

Approved as to Availability of Funds:

Director of Finance

DRAFT

EXHIBIT A

Legal Description and Depiction

Lot 3, H & H Subdivision (Reception No. 2824156)
Lot 2, H & H Subdivision (Reception No. 2828885)
Lot 2, H Four Commercial Park, Filing No. 3 (Reception No. 1431629)

All parcels of which are located in Lots 1 & 2 of Section 31, Township 1 North, Range 1 West,
Ute Meridian, Grand Junction, Mesa County, Colorado.

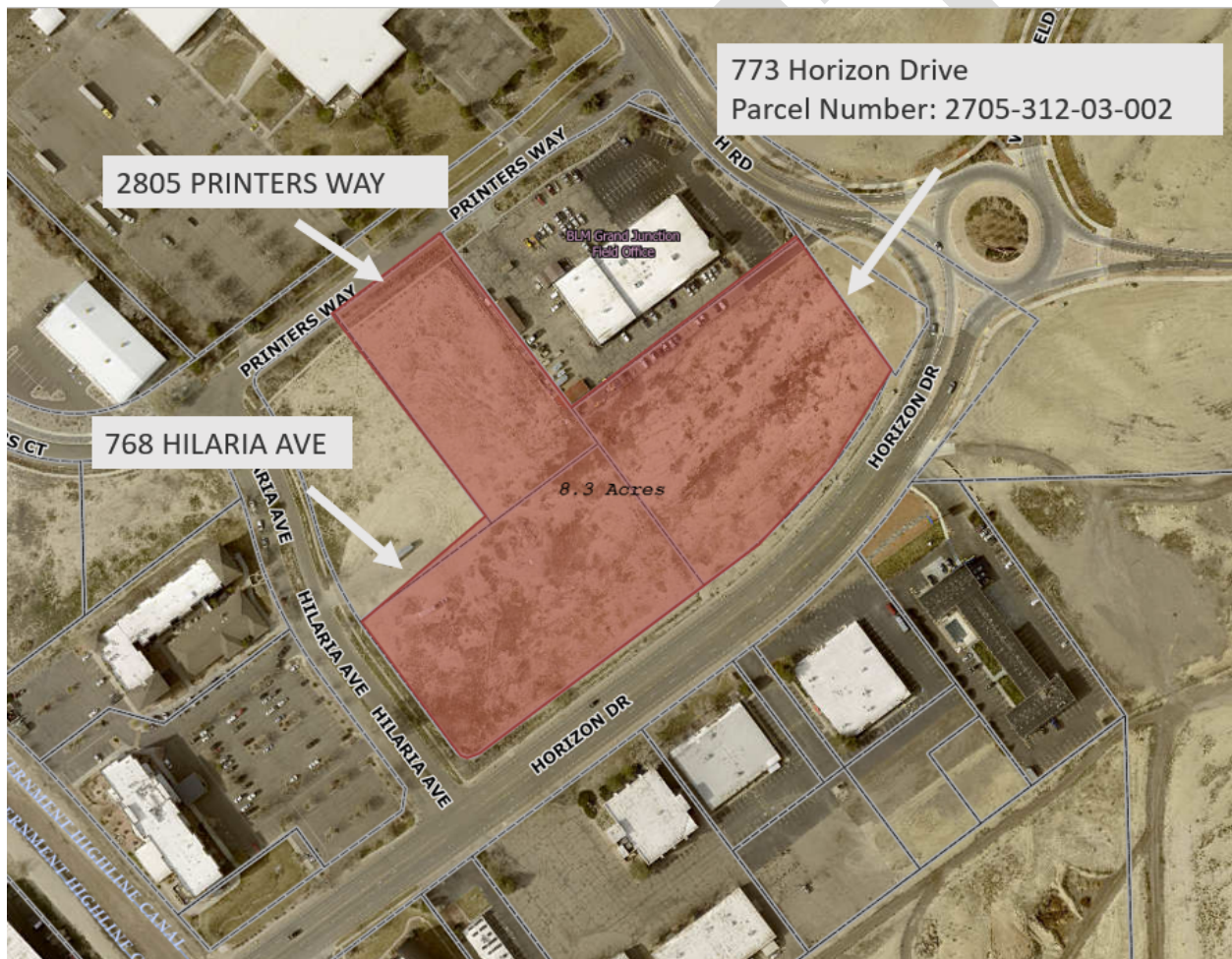


EXHIBIT B

Infill Incentive Application

Application for Corridor Infill Incentive Project

Please select year Project is seeking funding	2023
Project Name	The Landing on Horizon
Property Address/Parcel Identification Number	2805 Printers Way, 768 Hilaria Avenue and PIN 2705-312-03-002
Property Ownership	APR Grand Junction 3 LLC
Developer/Entity Name	APR Grand Junction 3 LLC
Developer/Entity Email Address	brian@anthonyproperties.com
Developer/Entity Phone Number	2148032678
Developer/Entity Mailing Address	9200 Andermatt Drive, Lincoln, NE, 68526
Description of how the Project will address the City's redevelopment and infill goals. The Project description shall include but not be limited to, an explanation of the square footage, uses and unit type and count.	<p>In short, this project will be very similar in nature to The Railyard at Rimrock and The Slate on 25.</p> <p>The project addresses the City's infill goals by providing some much-needed multifamily housing in one of the corridors specifically identified by this incentive. Not only does will this project provide housing but it will also take a forever-vacant property and turn it in to a productive property.</p> <p>The proposed project is called The Landing on Horizon which will be a 196 unit, Class A multifamily community. The 196 residential units will be divided between six buildings, each of which will contain studio, 1br and 2br units. There is one 3br unit per building. Each building will also have 8 "tuck-under" garages which are within the building's footprint as well as one detached 8-bay garage. There will of course be surface parking as well.</p>

In addition to the residential buildings, there will be a separate clubhouse with amenities such as a swimming pool, fitness center, workspace, etc. The clubhouse will also house the full time property manager and leasing agent.

Description of the Project timeline, whether the Project is dependent on other grant funding or entitlements, whether the Project will be phased, and if there any known uncertainties for the Project.

The project needs to obtain site plan approval from the City as the only remaining entitlement needed. Currently, we expect to make our submittal by mid-November, if not sooner. It is anticipated that final site plan will be approved in January 2023 and groundbreaking would commence shortly thereafter. The project is not dependent on obtaining any other grant funding.

For a project of this size, it will take about 18-22 months to complete construction with the first buildings being delivered about 10 months after groundbreaking. The project will not be phased and should deliver a new residential building every 45-60 days after the first one.

The only remaining uncertainty is the overall cost of the project. Our general contractor is about to send the project out for pricing so we should know in about 45 days if it is within the budget. This incentive will undoubtedly help lower the overall costs.

Description of the developer's experience with and capacity to implement the proposed Project.

The developer is Anthony Properties from Dallas, TX. We have a 37 year history of successfully completing projects of various kinds including retail, shopping centers and many movie theatres. Anthony Properties has been in the Class A multifamily space for about 8 years and has successfully delivered five communities, one of which is The Railyard on Rimrock in Grand Junction. We have two more under construction currently, including The Slate on 25 which is also in Grand Junction.

Additionally, we have four more projects in the entitlement phase in New England - one in Massachusetts and three in Connecticut.

We have the manpower and financial ability to construct and complete multiple projects at the same time. Our capacity is really limited only by the amount of time it takes to get a new project through the entitlement stage.

Amount of the incentive being requested. Per Attachment B of Resolution No. 74-22 which adopts a new corridor infill incentive, we are requesting a Level 4 incentive.

A preliminary financing plan including project budget and a letter from a State or Federally chartered commercial bank or lender expressing the ability, expertise, and financial capability of the developer's ability to complete the Project. Please see the attached supplemental documents 1 and 2 for the budget and lender letter.

Our financing plan is such that we will close on the purchase of the property with our own funds and secure construction financing for the construction of the project. We have plenty of capital to put the required 25% equity into the construction loan and have several sources for that construction loan, all of whom we have worked with before.

Once the property is fully built and occupied, we will refinance with permanent debt and retire the construction loan.

Supplemental Document 1 [Landing Development Costs 110122.pdf](#)

Supplemental Document 2 *Field not completed.*

Supplemental Document 3 [jekann_2022-10-24-16-34-18.pdf](#)

Supplemental Document 4 *Field not completed.*

Supplemental Document 5 *Field not completed.*

Supplemental Document 6 *Field not completed.*

Supplemental Document 7 *Field not completed.*

Supplemental Document 8 *Field not completed.*

EXHIBIT B
Infill Incentive Application (Supplemental Information)

Financing: Construction of The Landing will be financed using a combination of Anthony Properties equity and lender financing. For this project, we have two lenders vying for our business to finance it. One of them is the same lender who is financing The Slate on 25 and the other has previously financed deals with the property management company we use. We expect commitment letters from both of them on Dec. 15 showing a 75/25 debt/equity ratio, which is lower than most developers request. Anthony Properties has ample equity to meet this loan requirement on hand and does not need to seek equity partners or raise equity in any way. We will choose our construction lender shortly after Dec. 15 and once a lender is chosen, it will take approximately 45 days before the construction loan closes.

Timing: Once the construction loan closes, construction can begin immediately after. As it is with all of our projects, we will build the entire project all at once which will consist of 168 residential units along with amenities such as a clubhouse, swimming pool, fitness center, detached garages and bike storage. Construction of the buildings will take place sequentially where one building follows the next so that residential buildings are completed and turned over to us approximately every 45 days. The first residential building and clubhouse are delivered about 10 months after construction begins so that we can have the staff on hand as the first residents move in. Unless there are unforeseen circumstances that delay construction, the project should be completed around 20 months after groundbreaking.

Below is an estimated schedule but it should be noted that starting in the heart of winter could delay the project. Also, supply chain can always change completion schedules.

Groundbreaking	Feb. 1, 2023
Sitework	8 weeks
Commencement of vertical construction	Apr. 1, 2023
Delivery of clubhouse and Building 1	Feb. 1, 2023
Delivery of Building 2	Mar. 15, 2024
Delivery of Building 3	May. 1, 2024
Delivery of Building 4	Jun. 15, 2024
Delivery of Building 5	Aug. 1, 2024
Delivery of Building 6	Sep. 15, 2024

Incentive: While our other recent project, The Slate, was an expensive project as well, interest rates were considerably lower when that construction loan locked and that site is in a Federal Opportunity Zone. With inflation and interest rates still rising and negatively affecting construction costs, The Landing is dependent on receiving this incentive or it simply will not be feasible.

1. Grand Junction APR 3, LLC has not secured a construction estimate it is unknown if this is a Level 4 grant and/or if the project will proceed;
Do you have any additional information/evidence you can supply that indicates confidence in the cost estimate you provided in your application.

We received our cost estimates from the general contractor for The Landing. Unfortunately, they are some \$3,000,000 over what was projected in the submittal for this incentive, pushing our total costs to over \$41,000,000. I have attached the estimate we received last night.

2. The application for the incentive says that APR Grand Junction 3 LLC owns the properties, it does not, which was confirmed by Mr. Shui last week.
Are you able to provide any additional information that indicates you have authority to act on behalf of the property owners?

Anthony Properties Realty Inc. has contracted to purchase the property and therefore has an equitable interest in the property. Our contract specifically states on Page 8, Section 12 that we may pursue all applications and requests with governmental agencies. The second attachment is a redacted version of one of the contracts for your reference.

3. It is not clear from the application, or Mr. Shui's supplemental information, what the entity structure/relationship is between Anthony Properties and APR and/or the financing structure. Grand Junction APR 3 LLC is not a Colorado entity. For paragraph 24 a) (iii) the entity structure needs to be clarified and in turn hopefully the financial details will be disclosed.

Anthony Properties Realty Inc. is a development entity. As required by lenders, and for tax purposes, each project is held in a single-purpose entity (APR Grand Junction 3 LLC in this case). The development agreement provides for assignment of the DA to such entity.

12/16 from resa@anthonyproperties.com

“... I want to confirm that the number of units is 168 for The Landing.”

EXHIBIT E

Form of Memorandum of Redevelopment Agreement

Recording Requested By
And When Recorded Return To:

MEMORANDUM OF DEVELOPMENT/REDEVELOPMENT AGREEMENT

THIS MEMORANDUM OF DEVELOPMENT/REDEVELOPMENT AGREEMENT is made as of September __, 2022, by and among APR Grand Junction 3 LLC, a Nebraska limited liability company, or its successors and assigns permitted in accordance with Paragraph __ (“**Developer**”), and the CITY OF GRAND JUNCTION, a Colorado Home Rule municipal corporation (“**City**”). The Developer and the City are sometimes collectively called the “**Parties**,” and individually, a “**Party**.”

The Parties entered into that certain Redevelopment Agreement, dated _____, 2022 (the “**Development/Redevelopment Agreement**”) pertaining to the redevelopment of the real property described therein and on Exhibit A, attached hereto (the “**Property**”). All initially capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement.

Pursuant to the Redevelopment Agreement, the City has agreed to waive certain Fees, not to exceed the Fee Cap with such obligation being contingent upon Developer having Commenced and Completed construction of the Project by the Commencement Deadline and Completion Deadline, respectively.

This Memorandum may be executed in counterpart originals, each of which shall be deemed an original, and each of which shall be deemed to constitute one and the same Memorandum. Additionally, a copy of an executed original Memorandum signed by a Party hereto and transmitted by electronic mail shall be deemed an original, and any Party hereto is entitled to rely on the validity, authenticity, and authority of an original transmitted by electronic mail. Nothing in this Memorandum shall be deemed or interpreted to amend the Redevelopment Agreement. In the event of any conflict between the terms and conditions of this Memorandum and the terms and conditions of the Redevelopment Agreement, the terms and conditions of the Redevelopment Agreement shall supersede and control. The purpose of this Memorandum is merely to provide notice of the existence of the Redevelopment Agreement.

[Remainder of page blank; signature pages follow]

The Parties hereby execute this Memorandum of Development/Redevelopment Agreement by their duly authorized representatives as follows:

City of Grand Junction, Colorado

Mayor

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The forgoing Memorandum of Development/Redevelopment Agreement was acknowledged before me this _____ day of _____ 2022, by _____ as Mayor of the City of Grand Junction, a Colorado Home Rule municipal corporation.

Witness my hand and official seal. _____

Notary Public

My commission expires: _____

(SEAL)

City Clerk

Date

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The forgoing Memorandum of Development/Redevelopment Agreement was acknowledged before me this _____ day of _____, 2022, by _____ as City Clerk of the City of Grand Junction, a Colorado Home Rule municipal corporation.

Witness my hand and official seal. _____

Notary Public

My commission expires: _____

(SEAL)

[Signature Pages Continue]

DRAFT

EXHIBIT "A"

Legal Description

Lot 3, H & H Subdivision (Reception No. 2824156)
Lot 2, H & H Subdivision (Reception No. 2828885)
Lot 2, H Four Commercial Park, Filing No. 3 (Reception No. 1431629)

All parcels of which are located in Lots 1 & 2 of Section 31, Township 1 North, Range 1 West,
Ute Meridian, Grand Junction, Mesa County, Colorado,

DRAFT

EXHIBIT F

Form of Estoppel Certificate

To: APR Grand Junction 3 LLC, a Nebraska limited liability company (“Developer”)

From: CITY OF GRAND JUNCTION, a Colorado Home Rule municipal corporation (“City”)]

Date: _____, 20__

Re: The Development/Redevelopment Agreement, dated as of ____, 2022, by and between Developer, and the CITY OF GRAND JUNCTION, a Colorado Home Rule municipal corporation (“City”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

The City hereby certifies, warrants, represents, and agrees, as of the date hereof, as follows:

1. The Agreement is in full force and effect and has not been modified, supplemented, or amended in any way, except as expressly described above.

2. The Developer has timely and fully performed its obligations under the Agreement through the date of this Estoppel Certificate. There exists no default under, violation of, or failure to comply with the Agreement, and no event has occurred, or circumstance exists that, with the giving of notice or the lapse of time, or both, would constitute a default under, violation of, or failure to comply with the Agreement.

3. The Commencement Deadline is _____ and the Completion Deadline is _____.

4. The Developer Commenced the Project on _____ and Completed the Project on _____. [modify as applicable]

5. Through the date of this Agreement, [the City has waived or paid \$ _____ in Fees] in accordance with this Agreement.

6. The City hereby approves of the Developer’s assignment of the Agreement to _____. [OR] _____ is a Permitted Assignee under the Agreement. [modify as applicable]

7. The Agreement was approved by [the City at a public hearing held on _____ pursuant to Ordinance _____].

8. The City agrees that _____ days of Force Majeure delays have accrued under the Agreement.

9. The City has not assigned the Agreement.

10. The undersigned is duly authorized to sign and deliver this Estoppel Certificate, and no other signature is required or necessary in connection with the execution and validity of this Estoppel Certificate. The representations and warranties of the City made in the Agreement are true, complete, and accurate as of the date of this Estoppel Certificate.

11. This Estoppel Certificate shall inure to the benefit of Developer and its successors, assigns, and lenders (the “**Reliance Parties**”), and the foregoing certificates, representations, warranties, and agreements shall be binding upon the City and its successors and assigns and inure to the benefit of the Reliance Parties.

[signature on following page]

DRAFT

IN WITNESS WHEREOF, the undersigned has caused this Estoppel Certificate to be executed as of the day and year first written above.

CITY SIGNATURE BLOCK

By: _____

Name: _

Title: _

DRAFT

EXHIBIT C

Preliminary Financing Plan

Construction of 168-unit project, *The Landing on Horizon* (Project) will be financed using a combination of Anthony Properties equity and lender financing. For the Project financing Anthony Properties has two lenders vying for the business.

One of them is the same lender who is financing *The Slate on 25* and the other has previously financed deals with the property management company Anthony Properties uses.

Anthony Properties expects commitment letters from potential lender on December 15, 2022, showing a 75/25 debt/equity ratio, which is lower than most developers request. Anthony Properties has ample equity to meet such a loan requirement on hand and does not need to seek equity partners or raise equity in any way.

Anthony Properties will select as construction lender shortly after December 15, 2022, and once a lender is chosen, it will take approximately 45 days before the construction loan closes.

EXHIBIT D

Conceptual Plans (As submitted to the City for review in Project No. SPN-2022-913)

