TOWN OF
BRECKENRIDGE

Town Council Special Meeting
Wednesday, April 30, 2025, 11:30 AM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE CONDUCTS HYBRID MEETINGS. This meeting will be held in person at Breckenridge Town Hall and will also be broadcast live over Zoom. Join the live broadcast available by computer or phone: https://us02web.zoom.us/j/89678284254 (Telephone: 1-719-359-4580; Webinar ID: 896 7828 4254).

If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 547-3127, at least 72 hours in advance of the meeting.

I. CALL TO ORDER, ROLL CALL

II. EXECUTIVE SESSION FOR LEGAL ADVICE, NEGOTIATIONS, AND PROPERTY ACQUISITIONS

III. DISCUSSION

RUNWAY NEIGHBORHOOD DEVELOPER AGREEMENT

IV. EXECUTIVE SESSION FOR LEGAL ADVICE AND NEGOTIATIONS

V. ADJOURNMENT

Memo

To: Town Council

From: *Laurie Best - Housing Director and Melanie Leas - Project Manager*

Date: 4/23/2025 (for 4/30/2025)

Subject: Runway Neighborhood - work session

Town Council Goals (Check all that apply)

X	More Boots & Bikes, Less Cars	X	Leading Environmental Stewardship
X	Deliver a Balanced Year-Round Economy	X	Hometown Feel & Authentic Character
☐	Organizational Need		

Summary

The goal of this work session is to provide the Council with additional information regarding the Runway Housing Project Development Agreement which is scheduled for 1st reading on May 13th. Specifically, this work session is intended to address a few issues discussed during your March 8th work session (project budget/developer fee/phasing/market risk, and accessory dwelling units). We are also providing the latest draft of the Agreement in the event there are other issues the Council would like to discuss before this is presented for 1st reading.

Runway Neighborhood Background

Staff began discussions with the Council in Summer 2023 for the development of the Runway Neighborhood. Analysis of the site and potential opportunities began with the assistance of independent outside consultants, Eric Hold and Todd Johnson, and Norris Designs to determine the best use of the land through fit tests, while also exploring average construction costs and geothermal options. In March 2024, a Request for Qualifications was issued for a Development Partner. The intent was to bring on a design/development team to assist with pre-development services and master planning the project by working with Council and staff on the appropriate layout, housing type, unit count, price points, and to assist the Town with budget, pricing, and financing options. We received 10 proposals of which 4 were local teams. The proposals were vetted by five staff members and our independent consultants based on their experience with affordable housing, sustainability/net zero, team composition, creativity/innovation, and local capacity. Following the evaluation, 4 teams were selected for interviews based on their alignment with these criteria. Ultimately Neighborhood Crafters, a team lead by Suzanne Allen Sabo was selected. At the time, that team was already working on the Stables Village project in partnership with the Town. The team was expected to perform the pre-development/design services, for the Runway Neighborhood with the possibility of rolling into construction if a mutually acceptable contract could be negotiated and depending on the Town's satisfaction with the buildout of Stables Village Neighborhood. For over a year, this team has been working on both projects simultaneously including the build out/completion of Stables Village which will be completed in Q2 2026 and the design, pre-development and planning for the Runway Neighborhood, which should break ground this summer pending Council approval of the Development Agreement and budget.

Runway Neighborhood Development Agreement (Budget/Developer Fee/Phasing/Market Risk)

The total project cost for the Runway Neighborhood is still projected at approximately $149M for 148 units, excluding ADUs. The Town's contribution is still projected at approximately $50M which includes the cost of infrastructure plus a per unit gap to cover the cost of net zero and the gap to subsidize the very affordable sale prices. This is an increase of $14M over the $36M discussed with Council at the end of 2024. This increase is reflective of an increase in the number of units, from 100 to 148, with additional subsidy to reduce the price points of the townhomes and duplexes.

As noted previously, staff is recommending two development phases with the first phase including about 81 units and subsidy of about $31M. Pursuant to the Agreement, the Council will have the opportunity to consider if or when phase 2

will be initiated after assessing the housing market, the overall economy, and the status of phase 1. At the May 13th meeting the developer will present the Guaranteed Maximum Price (GMP) for phase 1 infrastructure, as well as an estimated vertical subsidy price, and staff will be asking for approval to move forward with phase 1 only. The Finance Department will also provide analysis of the Town budget at that May meeting.

The developer is currently proposing a 7% developer fee which is included in the total project cost. Following the March Council meeting, staff gathered additional information on developer fees for comparable projects and industry best practices to analyze the actual profit/gain to the developer. Based on this research, staff supports the proposed developer fee at 7%, with several cost categories exempted from the fee, which is lower than industry standard which ranges from 8-15%. This fee is not only developer profit – the fee is a pre-determined percentage paid to the developer for overhead as well as some profit. The market standard for developer profit is 4-7% and developer profit in the proposed agreement is slightly less than 3%. The developer profit is not guaranteed and is dependent on financial performance and is only realized if the project comes in at or under budget. This is a part of the budget that is subject to negotiation, and we recommend an executive session to discuss confidential elements of the fee, expenses etc.

Staff recognize there is some concern over market risk given uncertainty around the economy. To reduce risk due to unpredictable market conditions staff is recommending an additional budget check-in be added to the process prior to launching vertical development. We've worked with the developer and suggest a budget check-in prior to vertical construction for each phase which would include a check of pricing in May, then again in Fall 2025 and final pricing in February 2026 before vertical construction. This will allow the Town and developer to be comfortable with the market conditions prior to commencing vertical construction. It should be noted that when increases in some construction occur there frequently is a corresponding decrease in other areas, for example while lumber is currently on the rise, petroleum costs are down, thus items like paving for infrastructure are less expensive right now. This balancing act will be seen through regular check-ins and financial analysis by our respective teams.

Accessory Dwelling Units (ADUs):
At the March Council meeting, there was strong support for including Accessory Dwelling Units (ADUs) in all 44 single-family homes that have been designed to accommodate them. This does not include the 17 cottage-style single-family homes priced at $620,000. Council emphasized the importance of building out all ADUs, recognizing their value in adding rental units to the community and generating supplemental income for homeowners.

In preliminary conversations, the developer indicated that constructing ADUs in these 44 units would increase the sale price by approximately $125,000 per unit, plus an additional $11,000 for UBSD tap fees. This would raise the starting sale price of these homes to approximately $986,000. Staff has significant concerns about the affordability implications of this approach. Following are some pros and cons to be considered:
Pro:

- 44 ADUs are constructed as part of the project, increasing density and available workforce housing
- No additional cost to the Town for 44 rental units as the cost is passed on to the buyer
- Ability for homeowners to collect rent to supplement mortgage

Con:

- Price for the Single Family homes increases from 850K to 986K, favoring higher income families
- Buyers are required to own and manage a rental unit
- If buyers are able to recognize rental income as part of mortgage qualification, lenders will likely require at least a 20% downpayment (minimum $197,200). Most lenders will not allow buyers to use rental calculations unless it is a separate property.
- Resale pricing starting at $1,015,580 after one year – contributes to price creep and impacts long term affordability
- Difficult to monitor homeowners who are required to rent and do not want to
- The Runway ADU policy would be different than all other Town ADU policies and would contribute to the confusion Staff sees with a lack of standardization
- Limits buyers who have the capacity to do the work to complete their own buildouts to save money
- Limits future ability to receive grants under new policies that may be coming into fruition

The Housing Workgroup previously discussed an incentive-based approach that could be more effective and equitable. Rather than mandating ADU construction, an incentive program would encourage buyers to build an ADU by providing financial support for those who opt in. This incentive program could include:

- Town payment of certain fees (Upper Blue Sanitation District $11,000, water $12,000)
- A direct cash subsidy from the Town to offset construction costs ($45,000) (possibly using Housing Helps or potential grant incentives)

This structure would allow buyers flexibility to build their ADU either during or after initial home construction, depending on financial capacity. In exchange for the Towns contribution staff recommends an 80% AMI rental rate cap, the ADU would be required to be rented at no more than 80% AMI rates in perpetuity. Staff estimates the Town's maximum contribution per unit could be up to $70,000. If all 44 eligible homeowners participated, the total public investment would be approximately $3 million—an efficient use of funds considering the long-term affordability and rental inventory this would generate.

An incentive-based model also provides better control over price appreciation while potentially taking advantage of grants and or state funding to support the creation of ADUs. Under a mandatory ADU approach, the full $986,000 home value would appreciate annually at 3%, including the ADU. In contrast, the incentive policy would treat the ADU as a capital improvement and limit resale appreciation on the ADU portion to 10%, preventing disproportionate value escalation. This also would create a model that could be applied throughout the Upper Blue to incentive future ADUs.

A decision on the mandatory inclusion of ADU buildouts does not need to be made today. If the Council would like to continue with consideration of mandatory ADUs (versus incentive based build out), staff recommends spending the next couple of months better understanding the implications of these increased price points in the market. This would be done through community outreach prior to commencing any construction or determining final pricing of the development.

Public outreach/engagement
No changes to the initial plan.

Financial Implications
The budget has not changed and staff is still proposing two construction phases with multiple sale phases within each construction phases. Staff still recommends a 6 year buildout if phase 1 rolls into phase 2.

Equity Lens
No changes.

Staff Recommendation
Look forward to Council direction and we will incorporate any updates in the final draft of the Agreement for your consideration on May 13th. Specifically,

- Is Council comfortable with the Developer fee as presented?
- Is Council comfortable moving forward with 1st reading on May 13th?
- Does Council have any additional feedback on the Agreement?
- Is Council prepared to choose an ADU philosophy for the Runway Development (incentive based versus mandatory)?

Runway Housing Project Development Agreement

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of the effective date below in Section 27 (the "Effective Date"), by and between the Town of Breckenridge, Colorado, a Colorado home rule municipality with an address of P.O. Box 168 Breckenridge Colorado 80424 (the "Town"), and Runway Neighborhood, LLC, a Colorado limited liability company with an address of P.O. Box 5540 Frisco, Colorado 80443 ("Developer") (each individually a "Party" and collectively, the "Parties").

WHEREAS, the Town owns the real property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, on May 23, 2024, the Town issued a request for proposals ("RFP"), seeking developers interested in developing the Property; and

WHEREAS, Developer responded to the RFP, and wishes to construct deed-restricted workforce housing on a portion of the Property; and

WHEREAS, the Town is willing to contribute the Property to Developer for the Project, subject to the terms of this Agreement; and

WHEREAS, the Town is also willing to contribute financially (hereinafter “Town financial contribution”) to the project provided the deed restricted housing is sold at affordable prices; and

WHEREAS, on August 13, 2024, Runway Neighborhood Infrastructure, LLC (the “Infrastructure Developer”), which is owned by the same parent company as Developer, and the Town entered into a Pre-Development Agreement for Services (“PDA”) to perform preliminary planning tasks including site analysis, schematic design, and a master plan; and

WHEREAS, the Town and the Infrastructure Developerare concurrently negotiating a Guaranteed Maximum Price (“GMP”) Agreement for the construction of horizontal infrastructure improvements on the Property; and

WHEREAS, the Parties desire to set forth the framework for the potential development of workforce housing on a portion of the Property in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Purpose. The purpose of this Agreement is to establish roles and responsibilities regarding the development of workforce housing on the Town-owned property described in Exhibit A.

2. Definitions.

a. "Planning Documents" means the approved plans for development of the Property including the Master Plan, Class A Development Permits, and plats creating the lots for the Property, and any approved site plans for the Property.

b. "Restricted Units" means the residential dwelling units in the Development subject to the Restrictive Housing Covenant, which shall be in substantially the form attached hereto as **Exhibit B** and incorporated herein by this reference.

c. "Development" means a deed-restricted workforce housing project to be developed on a portion of the Property as described in the Planning Documents.

d. "Budget" means the financial budget approved by Town Council for the construction of both horizontal and vertical improvements on the Property, which shall include the Town's financial contribution, Developer's warranty obligations, and the agreed upon sale prices for the Development phase being constructed as set forth more fully in Section 9 below.

3. Master Plan. The Parties agree that it is most efficient and in the best interests to the success of the Project to use a master plan for the Development (the "Master Plan"). As set forth in the PDA, Developer and the Infrastructure Developer shall be responsible for obtaining all required approvals for the Master Plan for this project through the Town of Breckenridge Development Review Process. The Master Plan is already in the development review process and it is anticipated that the Master Plan will be approved concurrently with the GMP Agreement, the Budget, and this Agreement.

4. Phased Development. The Parties recognize that the Development will be developed in phases, and such phasing shall be reflected in the Planning Documents. At this time, it is anticipated that the Development will have two construction phases, Phase I and Phase II. It is an essential element of this Agreement that Town affirmatively authorize the commencement of Phase II. Developer will be responsible for the construction of Phase I as set forth in the Planning Documents, but shall not be authorized to commence Phase II until the Town so directs. Authorization to commence Phase II shall occur at a public meeting of the Town Council. The parties will mutually agree on sale phases for each build Phase.

5. Number of Units. The total number of units allowed in Phase I and Phase II of the Development shall not exceed one hundred and forty-eight (148) deed-restricted workforce single family, duplex, and multi-family units.

6. Affordable Housing. The Developer shall develop 100% of the units as for-sale single family, duplex, or multi-family Deed Restricted Units that target lower and middle income families in accordance with the pricing set forth in the approved Budget. The Developer and the Town will agree to the final number of units at each AMI and that number will be reflected in the Budget.

7. Town Obligation/Investments. In addition to the Property, the Town agrees to contribute funding for the Development. The amount of the funding must be mutually acceptable to the Town and the Developer and will be set forth in the Budget. The Budget

will include all costs associated with the Development including infrastructure (on and offsite), site work (on and offsite), architecture, vertical construction, marketing, sales, outreach, etc. The Budget must also include all projected sales revenue based on specified target sales prices. In the event the Town and the Developer do not agree on the Budget or the Town and the Infrastructure Developer do not agree on the GMP Agreement, either Party may terminate this Agreement. If either Party or the Parties terminate this Agreement under this Section 7, the Town will provide payment for services and costs to date pursuant to the PDA and neither party shall have any further obligation to each other. Upon approval of the Budget and GMP Agreement, it is anticipated that the Town will provide funding for the on and off-site work and infrastructure performed by the Developer and the Infrastructure Developer by monthly draw based on percentage completion, including draw(s) in advance of the start of construction for deposits and reimbursable costs such as engineering, architecture surveying and other incidental expenses as required by Developer and Infrastructure Developer. Vertical development subsidies identified in the Budget shall be paid for each phase (based on number of units per phase) at the time the first building permits are issued for each phase; provided, however, the Parties may mutually agree in writing to an alternative schedule or process for the Town's financial contribution.

8. Schedule. Developer shall complete construction of the Project substantially in compliance with the schedule attached hereto as **Exhibit C** and incorporated herein by reference. Said schedule is a good faith target schedule and may be subject to adjustment for delays in approvals, pre-sales, financing, force majeure, and delays due to shortage of materials, weather, or other similar reasons beyond the reasonable control of Developer, or other such reasonable factors mutually agreed upon in writing by the Parties. As noted in Section 4 above, Phase II of the Development shall not commence until approved by the Town.

9. Transfer of Property. After execution of this Agreement, and after the Town has reviewed and approved the Budget and GMP Agreement, the Town shall transfer ownership of the portion of the Property described in **Exhibit A** associated with Phase I to Developer in accordance with the Phase I and Phase II Planning Documents, by special warranty deed to facilitate the timely financing, development, and sale of Phase I of the Project. The Phase II portion of the Property shall be transferred to Developer promptly upon the Town approving Phase II pursuant to Section 4 above. Closing agent for transfer of title shall be Land Title Guarantee Company. The Town shall pay for owner's extended title insurance coverage and any costs associated with the closing agent. Developer shall pay for any endorsements required by it or Developer's lender. Developer shall pay the deed recording fees. The Town shall pay any other closing costs. The special warranty deeds shall only be subject to the exceptions of title listed on the title commitment approved by Developer, which approval shall not be unreasonably withheld.

10. Default. Prior to any action against Developer for breach of this Agreement, or default in the Development, the Town shall give Developer a written notice of any claim by the Town of a breach or default by Developer, and Developer shall have the opportunity to cure such alleged default within thirty (30) days, unless such cure cannot be accomplished within such time period, and in such case for a reasonable period to

accomplish the same, not to exceed ninety (90) days. The Town shall have discretion to approve a longer period in the event of extraordinary circumstances.

In the case of any such uncured default, the Town reserves the right to proceed with assumption of all rights and responsibilities of the Developer for the Phase of the Development that is subject to such default. In addition, any such case of uncured default may result in the Town proceeding to terminate this Agreement for cause as set forth in Section 26(a).

11. Reverter Clause. In the case of a default, and after any and all cure periods during which Developer fails to cure, any and all Property interests, including the Property described in **Exhibit A**, that have been conveyed to the Developer, which remain in the Developer's ownership and control, and that have not been conveyed to individual homeowners, homeowner's associations, the Town of Breckenridge, special districts or other governmental or quasi-governmental entities, shall be conveyed back to the Town in the same manner and upon the same or similar terms as conveyed to Developer under Section 9.

12. Developer Employee Unit. The Parties shall agree upon twothree (23) units that will be reserved for sale to Developer's and the Infrastructure Developer's contractors, subcontractors, employees of contractors and subcontractors ("Developer Employee"). OneTwo (12) units in Phase I1 shall be reserved for purchase by a Developer Employee and one (1) unit in Phase II shall be so reserved. Developer Employee Units will be single family units and not duplex or townhome units. Developer Employees seeking to purchase one of the Developer Employee Units shall meet the applicable income requirements and all other qualifying criteria as set forth in the Restrictive Housing Covenant and/or the Town's Housing Rules and Regulations.

13. Restrictive Housing Covenant. The Town shall, prior to any transfer of the Property to Developer, record a Restrictive Housing Covenant against the Property mutually acceptable to the parties. The Town will allow the Restrictive Housing Covenant to be subordinate to any financing associated with the Development.

14. Financing. Developer shall be solely responsible to procure financing for the Project. Any instrument of encumbrance to be recorded by the lender, such as a deed of trust or a lien ("Encumbrance"), must adhere to two preconditions, as follows: (i) reasonably related to the development of the parcel or phase so encumbered as contemplated herein; and (ii) be approved in writing by the Town prior to execution by Developer (which approval will not be unreasonably withheld), and prior to any recordation of any such Encumbrance. Any Encumbrance that does not satisfy these preconditions shall be deemed a violation of this Agreement, and subject to timely correction or cure, and if not so corrected or cured in accordance with Section 26(b) herein, shall be deemed a default and subject to termination for cause. In addition to the foregoing remedy, the parties hereto agree that any such improper Encumbrance not timely corrected or cured shall be deemed null and void and of no force or effect, and Developer shall assume all responsibility for the ramifications of such nullification.

15. Inspection of Developer Books and Records. Except for the Developer's financing documents, the Developer shall maintain all books and records related to the Project and make them available for inspection upon the Town's request. Notwithstanding the foregoing, if the Town has reasonable cause to believe that Developer cannot complete the Project, the Town may request to review the financing documents of the Developer at which time the Developer may assert that such financing documents are confidential records under Colo.Rev.Stat. § 24-72-204. For purposes of this section "financing documents" includes all records documenting the obligations of Developer regarding the loan(s), excluding the Encumbrance which is subject to disclosure under Section 14.

16. Developer Fee. Developer shall receive a ~~minimum~~ fee for the horizontal and vertical construction and the Infrastructure Developer shall receive a ~~minimum~~ fee for construction of the infrastructure ~~-~~in the amount of 7.0% on all costs and expenses for the Development as set forth in the Budget, said fee~~profit~~ to exclude any percentage return for costs paid for or directly reimbursed by the Town. The final Developer Fee shall be as set forth in the Budget.

17. Authority; Independent Contractor Status. Developer shall have no right, authority or power to bind the Town for any claim for labor or for material or for any other charge or expense incurred in delivering the Development or performing any alteration, renovation, repair, refurbishment or other work. The Parties shall be treated as independent contractors to this Agreement and Developer shall not be considered the agent of the Town in the construction, erection or operation of the Development.

18. Fees and Taxes. The Parties agree that each unit subject to a Restrictive Covenant within the Development shall not be required to pay building permitting, plan review, and inspection fees, use taxes, impact fees, excise taxes or water PIFs. These taxes and fees will be waived by the Town.

19. Marketing Units. The Developer intends to contract for marketing and sales services. The Town and Developer agree to establish a mutually acceptable marketing plan with criteria and processes to ensure broad marketing throughout the community. The Developer will utilize the Summit Combined Housing Authority (SCHA) for qualification and lottery purposes.

20. Sales. In the event transfer of title to a unit subject to a Restrictive Covenant is not completed within three (3) months from the date of certificate of occupancy, the Parties agree that the following events shall occur in the order set forth below:

a. The Developer shall send a written notice ("Developer Notice") to the Town of the Town's option to purchase a unit, which may be exercised within ten (10) days of such notice being given by the Town to the Developer ("Town Notice"). If the Town exercises its option within such 10-day period, the Town shall close on such purchase and sale within thirty (30) business days of receipt of the Developer Notice.

b. If the Town does not elect to purchase the unit under subsection a, Developer may exercise its option to rent a unit at a rate mutually agreed to in writing by

the Parties that is no less than the Developer costs for the unit for the loan, taxes, insurance, and HOA dues. In the event the Developer exercises its option to lease under subsection b, the Town has the discretion to either: i) permit Developer to lease the unit exempt from the established affordability requirements or ii) provide additional funding to offset the difference between the then established affordable rental rate and the mutually agreed to rental rate.

21. Compliance with Law. Developer shall comply with all applicable laws, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environment, including (without limitation) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq*. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq*.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq*. ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq*.; the Clean Water Act, 33 U.S.C. § 1251, *et seq*.; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable Colorado environmental laws; and all other federal, state or local laws and regulations relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, now or at any time hereafter in effect.

22. Public Improvements.

a. Guaranteed Maximum Price Proposal. Developer agrees to complete both on-site and off-site public improvements (the "Public Improvements"), subject to a Guaranteed Maximum Price ("GMP") proposal. At the conclusion of the design development phase the Developer shall prepare and submit a GMP proposal to the Town based on the design development documents. The GMP shall be delivered to the Town within three (3) weeks of the approval of the Public Improvement permits. The Parties agree to negotiate in good faith to enter into a construction agreement based on a Guaranteed Maximum Price.

b. Final Acceptance and Dedication. Upon completion of the Public Improvements and upon final acceptance by the Town, Developer shall convey title to the Public Improvements to the Town at which time the Town shall become responsible for the operation and maintenance of the same.

c. Warranty. Developer warrants and guarantees that, for two (2) years from the date of acceptance, each Public Improvement: is not defective; will not fail; has been constructed and installed in a workmanlike manner suitable for its intended uses; has been constructed in compliance with applicable federal, state, municipal, and special district statutes, ordinances, regulations, rules, and codes.

23. Developer's Obligations.

a. Workforce Housing. To ensure affordability over time, the entire Development shall be for-sale single family, duplex, or multi-family Restricted Units subject to the Restrictive Covenant, as outlined in Exhibit B, and Notice of Lien. The total number of Restricted Units in Phase I of the Project shall not exceed eighty-one (81) single-family, duplex and multi-family units. The total number of restricted units in both Phase I and Phase II of the Project shall not exceed one hundred and forty-eight units. The units will be sold at the sale prices approved by the Town and as reflected in the Budget. All units will be sold with a one-year warranty from date of certificate of occupancy.

b. Homeowners' Association. Developer shall create the Runway Homeowners' Association (the "HOA"), which shall be responsible for the enforcement of the Declarations and Covenants for the Runway and the Architectural Standards for the Development. Such Declarations and Covenants shall be approved by the Town prior to adoption. The HOA shall also be responsible for the repair and maintenance of: any unique lighting in the Development; any unique signage for the Development; all internal trails and open/green spaces not maintained by the Town; all dumpster enclosures and mailboxes; all private roads and alleys shown on the Planning Documents; and all other items not required by applicable Town standards. The HOA shall not be responsible for repair, maintenance, or operation of the recycling/composting facilities.

c. Architecture. Developer shall develop the Property consistent with the Planning Documents. Architectural Standards for the Development shall be included in the Declaration and Covenants, or separate document, for the Development and shall be enforced by the HOA.

d. Permitted Development, Construction of Planning Documents. The Developer shall develop the Development in accordance with this Agreement, Town ordinances and regulations, and applicable state and federal law and regulations. To the extent the Planning Documents are silent on a particular matter, the Breckenridge Town Code and associated Town Standards shall apply.

24. Insurance. Developer agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Developer pursuant to the Development Agreement and naming the Town as an additional insured.

25. Term. The Effective Date of this Agreement shall be in accordance with Section 5.9 of the Municipal Charter and remain effective until all obligations of each Party are completed or until terminated as permitted herein. If the Planning Documents are not approved by the Town as described in Section 9, then Developer shall be paid for services to date pursuant to Section 4 and this Agreement shall automatically terminate and be of no force and effect whatsoever.

26. Termination; Delay.

a. Termination by Town for cause. Town may terminate the services of the Developer, and take possession of the Project and all materials, and equipment deemed to be part of the Services, if terminated based on cause as contemplated herein. The termination shall be effective thirty (30) days after Town has delivered written notice detailing the cause for termination hereunder to the Developer if the Developer has failed to reasonably cure the cause for termination within that thirty (30) day period; unless such cure cannot be accomplished within such time period, and in such case after a reasonable period to accomplish the same, not to exceed ninety (90) days. The Town shall have discretion to approve a longer period in the event of extraordinary circumstances. The termination may be initiated for any of the following reasons and shall not prejudice any other right or remedy available to Town, all of which shall be subject to the notice and thirty (30) day period to cure provided herein:

i. The Developer is adjudged bankrupt or insolvent.
ii. The Developer makes a general assignment for the benefit of his creditors.
iii. A trustee or receiver is appointed for the Developer or for any of his property.
iv. The Developer files a petition to take advantage of any debtor's act or to reorganize under any bankruptcy law.
v. The Developer repeatedly fails to supply sufficiently skilled workmen, or necessary materials or equipment to maintain the construction schedule or provide quality workmanship and/or product.
vi. The Developer disregards laws, ordinances, rules, regulations, or orders of any public body having jurisdiction of the Development.
vii. The Developer unreasonably and repeatedly disregards the authority of the Town as Property Owner or collaborator under this Agreement, after written notice of such concerns and failure to correct such actions.
viii. The Developer violates any material provision of the Agreement and fails to cure the same within the proper time frame for cure allotted herein.
ix. Notification by the lender of the Development of financial default by the Developer.

After termination is effectuated, Town may proceed to finish the Development by whatever method it deems most expedient. Developer will present all final invoicing to the Town within thirty (30) days of Termination for payment by the Town.

b. Termination by Town for Convenience. Town may also elect to suspend or abandon the Project and terminate the Agreement for convenience. The action shall be effective thirty (30) days after Town has delivered written notice to the Developer. This action may be initiated for any reason, without cause, and shall not prejudice any other right or remedy available to Town. The Developer shall be paid for all Development executed and any costs and expenses, including the Developer Fee, sustained due to the termination and Developer will present all final invoicing to the Town within thirty (30) days of Termination effective date.

c. Termination by Developer. Developer may terminate the Agreement for any of the following reasons. The termination shall be effective thirty (30) days after the

Developer has delivered written notice to Town, and provided a fourteen (14) day opportunity to cure:

i. Town has suspended the Development for more than sixty (60) days.
ii. Town has been issued a stop work order of sixty (60) days or more by court order or other competent public agency.
iii. The Town fails to act on any request for payment within thirty (30) days after its submittal.
iv. Town fails to pay the Developer within (30) thirty days the sum approved by the Town or awarded by arbitrators or court.
v. The Town repeatedly fails to respond to requests for approvals and other information required in a timely manner to allow Developer to meet its obligations and operate within the construction periods permitted due to seasonal constraints.
vi. Town fails to meet any other material obligations under this Agreement, the Planning Documents or the ancillary development agreement for public improvements.

d. Payment to Developer. The Developer shall be entitled to payment for all Development implemented and any expenses sustained due to the termination providing they have provided complete accounting within thirty (30) days of the termination date. In the event of termination, payments will be made to Developer for all work performed up to the date of termination. The Developer shall have the option of resuming work after such payment or proceeding with termination in the event of termination under Section 26.c.. If the Agreement is terminated pursuant to Sections 26.b. or 26.c., and in the event Developer does not elect to resume work as relates to termination under Section 26.c., the Developer shall also be entitled to payment for the remaining Developer Fee for the entirety of the Development.

If all phases of the Development are not completed by the Developer, the Agreement may be terminated by the Town in accordance with the provisions set forth in this Section 26.

e. Ownership of Planning and Construction Documents. The Planning Documents and all architectural, engineering, construction and similar plans are owned by Developer. In the event of termination of this Agreement pursuant to Section 26.b, the ownership of all Planning Documents shall transfer from Developer to the Town as the Town's sole remedy against Developer for termination for cause. For purposes of this Section, "Planning Documents" shall not include architectural, engineering and construction plans and documents for the vertical construction.

f. Town Assumption of Development. In the event the Town assumes completion of the Development under Section 10, or under any other provision of this Agreement, or the Agreement is terminated pursuant to Section 26, Developer is released from any and all further obligations under this Agreement excluding warranties for work completed prior to termination or assumption.

27. Miscellaneous.

a. Indemnification

i. To the fullest extent permitted by law, and in accordance with Section 13-50.5-102, C.R.S., Developer shall indemnify and hold Town, its officers, employees, and insurers, harmless from and against all liability, claims, and demands brought or asserted against Town by a third party (a party who is not a party to the Agreement) on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, whether alleged, adjudicated, or otherwise, related to or in any manner connected with the Agreement, to the extent that such injury, loss, or damage is caused by Developer's negligence or other fault, or the negligence or other fault of Developer's employees, agents, representatives, subcontractors, suppliers, or anyone else for whose acts Developer is liable under applicable law. Developer is not required to provide indemnification under this Section to the extent such liability, claim, or demand arises through the negligence or other fault of Owner, its officers, employees, or agents. As used in this Section, the term "fault" includes, but is not limited to, an intentional or willful wrongful act, or a breach of the Agreement.

ii. This indemnity provision is to be interpreted to require Developer indemnify and hold Town harmless only to the extent and for an amount represented by the degree or percentage of negligence or other fault attributable to Developer, or Developer's employees, agents, representatives, subcontractors, suppliers, or others for whose acts Developer is liable under applicable law.

iii. To the extent indemnification is required under this Section, Developer shall reimburse Town for all costs and expenses of litigation incurred by Developer related to the matter for which indemnification is required, including, but not limited to, court costs, expert witness fees, and reasonable attorney's fees.

iv. The extent of Developer's obligation to indemnify and hold Town harmless under this Section shall be determined only after Developer's liability or fault has been determined by adjudication, alternative dispute resolution (if permitted by the Agreement), or is otherwise resolved by mutual agreement between Developer and Town.

v. This indemnity provision applies only with respect to claims brought or asserted against Town by third parties, and not to claims only between Developer and Town.

vi. Town's officers, employees, and insurers are third party beneficiaries of this Section in accordance with its terms. However, any amendment, modification, or termination executed by Town and Developer is binding upon Town's officers, employees, and insurers.

vii. All indemnity obligations required by the Agreement shall survive the completion or termination of the Agreement, and shall be fully enforceable thereafter, subject to any applicable statute of limitation."

b. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

c. Governmental Immunity. The Town and its officers, elected officials, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, elected officials, attorneys or employees.

d. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and venue for any legal action arising out of this Agreement shall be in Summit County, Colorado.

e. No Third Party Beneficiaries. No third party is intended to or shall be a beneficiary of this Agreement, nor shall any third party have any rights to enforce this Agreement in any respect.

f. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Parties, and nothing contained in this Agreement shall be construed as making the Parties joint venturers or partners.

g. Severability. If any provision of this Agreement is determined to be void by a court of competent jurisdiction, such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect.

h. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

i. Modification. This Agreement may only be modified upon written agreement of the Parties.

j. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

k. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

l. Resolution Of Disputes.

A. The Parties will attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between persons who have authority to settle the controversy ("Executives"). Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Within five (5) days after receipt of said notice, Executives of the Parties to the dispute will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the

matter has not been resolved within ten (10) days of the notice of dispute, or if the Parties fail to meet within five (5) days, either Party may initiate mediation of the controversy as provided below.

B. If the dispute has not been resolved by negotiation as provided above, the Parties will endeavor to settle the dispute by mediation with a neutral third Party. If the Parties encounter difficulty in agreeing on a neutral third Party, they may each appoint a neutral third Party, such third Parties to appoint a neutral third Party to mediate. Each Party will pay their own attorneys' fees incurred in connection with negotiation and mediation.

C. Any dispute arising out of or relating to this Agreement, or the breach, termination, or validity of this Agreement, which has not been resolved by the methods set forth above within thirty (30) days of the initiation of mediation, may be finally resolved by appropriate judicial action commenced in a court of competent jurisdiction. The Parties agree to venue in the courts of Summit County, Colorado with respect to any dispute arising out of or relating to this Agreement. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

D. This Agreement is to be interpreted in all respects in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws that might require this Agreement to be governed by the laws of any state other than the State of Colorado.

ml. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

nm. Recording. This Agreement or a notice of memorandum of agreement may be recorded with the Clerk and Recorder for Summit County, Colorado and shall run with the land at the mutual consent of the Parties, which shall not be unreasonably withheld.

on. Authority to Execute Documents. Upon approval of the Ordinance authorizing the Town's participation in this Agreement, the Town Manager shall be authorized to execute any document reasonably required by or related to this Agreement and the Project, including the authorization of and subordination of Encumbrances as set forth Section 16 above.

po. Retained Authority. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abrogation of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee that is of uniform or general application.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF BRECKENRIDGE

_____
Shannon Haynes, Acting Town Manager

ATTEST:

_____
Helen Cospolich, Town Clerk

The Runway Neighborhood, , LLC, a Colorado limited liability company

By: Neighborhood Crafters, LLC a Colorado limited liability company, as Manager of Runway Neighborhood LLC

By:_____
Suzanne Allen Sabo, Manager

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Acknowledged, subscribed, and sworn to before me this _____ day of _____, 2025, by Suzanne Allen Sabo as Manager of Neighborhood Crafters, LLC, as Manager of Runway Neighborhood, LLC.

My commission expires: _____

(SEAL)

_____
Notary Public

EXHIBIT A
LEGAL DESCRIPTION

Runway Neighborhood

Tract A Fraction Subdivision
according to the plat recorded December 17, 2021 under reception number 1278464 in Summit County Colorado

AND

Tract C, Block 11 Subdivision
according to the plat recorded August 3, 2005 under reception number 797050 in Summit County Colorado

EXHIBIT B
Restrictive Housing Covenant and Notice of Lien
For Runway Neighborhood,
Summit County, Colorado
(attached)

EXHIBIT C
Schedule

Summer 2025 – Phase One ground break for civil

Fall 2025 – Vertical Pricing check in

Q1 2026 – Final Vertical pricing approved

Summer 2026 – Start of Phase 1 Vertical Construction

Phase 2 civil work continues or paused*

Summer 2027 – Potential phase 2 civil work start*

Winter 2027/2028 – Closings of first units in Phase 1

Spring 2028 – Vertical construction Phase 2 start*

Winter 2029 – All phase 1 units closed

Winter 2030 – Closings of first units in Phase 2*

Winter 2031 – Development Completion*

Primary Town Expenditures will be 2025-2030

**This schedule is subject to change by market conditions and other weather conditions. TBD by Developer and Council Authorizations*