ORDINANCE NO. 9

Series 2025

AN ORDINANCE APPROVING THE RUNWAY NEIGHBORHOOD PROJECT DEVELOPER AGREEMENT.

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, Runway Neighborhood, LLC ("Developer") responded to the RFP, and desires to construct a deed-restricted workforce housing neighborhood (hereinafter referred to as the "Town Project") on a portion of the Property; and

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

WHEREAS, the Town is also willing to contribute financially to the Town Project provided the deed restricted housing is sold at agreed-upon affordable prices; and

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

WHEREAS, the Parties have negotiated a project Developer Agreement, Exhibit B attached hereto, to develop the Town Project; and

WHEREAS, as part of the approval of the project Developer Agreement, Council wishes to authorize the Town Manager to execute all additional documents required or necessary to effectuate the Town Project and the Developer Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Agreement between the Town of Breckenridge and The Runway Neighborhood, LLC, and The Runway Infrastructure, LLC attached as Exhibit B, is hereby approved.

Section 2. Upon approval of this ordinance, the Town Manager shall be authorized to execute all documents required and/or necessary to effectuate the Town Project and the Developer Agreement.

Section 3. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 27th day of May 2025.

This ordinance was published in full on the Town of Breckenridge website on May 29, May 30, May 31, June 1, and June 2 2025. A public hearing on this ordinance was held on June 10, 2025.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 11th day of June 2025. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

Mae Watson, Town Clerk

TOWN OF BRECKENRIDGE

Kelly Owens, Mayor

APPROVED IN FORM

6-24-25

Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on June 11, June 12, June 13, June 14 and June 15, 2025. This ordinance shall become effective on July 15, 2025.

Runway Housing Project Developer Agreement

THIS DEVELOPER 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 The Runway Neighborhood, LLC, a Colorado limited liability company with an address of P.O. Box 5540 Frisco, Colorado 80443 ("Developer") and The Runway Neighborhood Infrastructure, LLC, a Colorado limited liability company with an address of P.O. Box 5540 Frisco, Colorado 80443 ("Infrastructure 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, 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 Developer are concurrently negotiating a Guaranteed Maximum Price ("GMP") Agreement for the construction of Horizontal Phase I 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 a Restrictive Housing Covenant, as set forth in more detail in Section 13.

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, Developer's Incentive, and the agreed upon sale prices for the Vertical Construction Phase being constructed as set forth more fully in Section 9 below. The Budget may be revised to reflect current pricing prior to being presented to Town Council for approval as part of the

authorization for Vertical Phase I and II. For the avoidance of doubt, approval of the Budget for any Horizontal Phase does not constitute approval of the Budget for Vertical Phase I or II. After final authorization, the Budget may be further revised to reflect modifications to the Development plan but such revisions shall only take effect upon Town Council approval.

e. "Developer's Incentive" means a 70-30 split in favor of the Town of net cost-savings achieved on actual construction of the Horizontal Phases and Vertical Construction Phases, not including any contingency. Such Incentive shall be calculated and paid out at the completion of each Horizontal and Vertical Construction Phase.

3. Master Plan. The Parties agree that it is most efficient and in the best interests to the success of the Project to use the approved master plan for the Development (the "Master Plan"). The Master Plan was approved by Council on May 13, 2025.

4. Phased Development. The Parties recognize that the Development will be developed in phases, and such phasing shall be reflected in the Planning Documents and this Agreement. At this time, it is anticipated that the Development will have two horizontal construction phases ("Horizontal Phases I and II") and two vertical construction phases ("Vertical Construction Phase I and Phase II"). It is an essential element of this Agreement that Town affirmatively authorize the commencement of Vertical Construction Phases I and II as well as Horizontal Phase II. Upon execution of this Agreement and Council approval and execution of the Budget and GMP Agreement, Infrastructure Developer is responsible for proceeding with the Horizontal Phase I. Upon authorization of Vertical Construction Phase I, including a Budget, by Town Council at a public meeting, Developer will be responsible for proceeding with the construction of Vertical Construction Phase I as set forth in the Planning Documents, but shall not be authorized to commence Horizontal Phase II or Vertical Construction Phase II until the Town so directs. Authorization to commence Horizontal Phase II and Vertical Construction Phase II, including a Budget, shall occur at a public meeting of the Town Council. The parties will mutually agree on sale phases for each Vertical Construction Phase.

5. Number of Units. The total number of units allowed in the Development is one hundred and forty-eight (148) deed-restricted workforce single family, duplex, and multi-family units. There will be no less than eighty-one (81) units in Vertical Construction Phase I.

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 individual unit pricing set forth in the approved Budget.

7. Town Obligation/Investments. In addition to the Property, the Town agrees to contribute funding for the Development, which shall 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 for Horizontal Phase I, 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 Infrastructure Developer by monthly draw based on the bills paid and work completed, 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. The details of payment and scope of work for Horizontal Phase I will be set forth in the GMP Agreement. Any remaining subsidies for Vertical Phase I and II identified in the Budget shall be paid based on the number of units for which building permits are submitted at any one time (each set of building permits to be referred to as a "Construction Phase").

8. Schedule. Developer shall complete construction of the Project substantially in

compliance with the schedule attached hereto as **Exhibit B** 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, Vertical Construction Phase I, Horizontal Phase II, and Vertical Construction Phase II of the Development shall not commence until approved by the Town in general accordance with the schedule as set forth in Exhibit B.

a. Transfer of Property.At the Fall 2025 financial review that is reflected in Exhibit B and prescribed below in Section 23(e), the Town and Developer will review current pricing for the construction of Vertical Construction Phase I, compare it to the Budget previously approved, evaluate overall market conditions, and subsequently present a recommendation to the Town Council regarding the financial feasibility of moving forward with Vertical Construction Phase I. If the Town Council agrees that it appears financially feasible at that time to make a preliminary authorization to proceed with Vertical Construction Phase I, the Town shall transfer ownership of the portion of the Property described in **Exhibit A** associated with Vertical Construction Phase I to Developer in accordance with the Planning Documents, by special warranty deed to facilitate the timely financing, development, and sale of Vertical Construction Phase I of the Project. The preliminary authorization contemplated in this Paragraph 9(a) does not constitute final approval for the Budget for Vertical Construction Phase I or final authorization to commence construction of Vertical Construction Phase I. In the event the Property is transferred pursuant to this Section 9(a), the following conditions apply:

i. Developer may not encumber in the Property in any way, including as contemplated in Section 14 below, until Vertical Construction Phase I is finally approved and authorized by Town Council.

ii. If the Town has not affirmatively and finally authorized Vertical Construction Phase I within one year of the transfer, or if this Agreement is terminated pursuant to any provision set forth in Section 26, Developer will re-convey the unencumbered Property back to the Town.

b. The Phase II portion of the Property shall be transferred to Developer promptly upon the Town approving Vertical Construction Phase II pursuant to Section 4 above. The Town Council may approve Horizontal Phase II with or without approving Vertical Construction Phase II, if the parties agree on a new GMP Agreement for Horizontal Phase II.

c. 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.

9. Default.

a. 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.

b. 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).

c. The remedies set forth in this Agreement are the sole and exclusive

remedies available to the Parties for any breach or default under this Agreement. Each party acknowledges that the remedies provided herein are adequate and sufficient, and waives any right to seek additional remedies, whether at law or in equity, including but not limited to consequential, incidental, or punitive damages.

10. Reverter Clause. In the case of a default or termination pursuant to Section 26, 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.

11. Developer Employee Unit. The Parties agree that one (1) unit that will be reserved for sale to one of Developer's contractors, subcontractors, or employees ("Developer Employee"). The unit shall be reserved and sold in one of the first two sales phases of Vertical Development Phase I and shall be one of the single-family home 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. If the unit is not purchased by a Developer Employee by the time the first two sale phases in Vertical Construction Phase I are completed, Developer will have no further right to any unit in Vertical Construction Phase I or II.

12. 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.

13. Financing. Developer shall be solely responsible to procure financing for the Vertical Construction Phases I and II of 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.

14. 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 for purposes of Colo.Rev.Stat. § 24-72-204. For purposes of this section "financing documents" includes all records of Developer regarding the loan(s), excluding documentation as to the loan terms and the Encumbrance which is subject to disclosure under Section 14.

15. Developer Fee. Developer shall receive a fee for vertical construction and the Infrastructure Developer shall receive a fee for construction of the infrastructure in the amount of 4.0% on all costs and expenses for the Development as set forth in the Budget, excluding only those certain items identified as exclusions in the Budget. The final Developer Fee shall be as set forth in the Budget.

16. 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.

17. 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.

18. 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, and the Town will assist in ensuring efficient and timely processes for qualifying applicants.

19. Sales. In the event transfer of title to a unit subject to a Restrictive Covenant is not completed within three (3) months from the earlier of the date of certificate of occupancy or the date a contracted buyer dropped out, in either case due to market conditions and at no fault of Developer, 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 at the price set forth in the approved Budget, 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 to a qualified renter at a rate mutually agreed to in writing by the Parties that is no greater than the rental rate equivalent of the targeted sale price AMI.

c. In the event that the Developer, in conjunction with the SCHA, has exhausted the lottery list of potential buyers, and has unsold units, Developer may sell such units to any qualified buyer pursuant to the terms of the Restrictive Covenant at the pricing established in the Budget.

20. 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.

21. Public Improvements.

a. Guaranteed Maximum Price Proposal. Infrastructure Developer agrees to complete both on-site and off-site public improvements (the "Public Improvements"), subject to the GMP Agreement.

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. Infrastructure 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.

22. Developer's Obligations.

a. Workforce Housing and Warranty. In accordance with this Agreement, Developer agrees to construct the Restricted Units in the Project. All units will be sold with a two-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 any 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. Financial Obligations. Infrastructure Developer is obligated to stay within the approved Budget for each Horizontal Phase and Developer is obligated to stay within the approved Budget for each Vertical Phase. The Developer shall provide regular status updates to the Town, through scheduled meetings and/or written reports, as mutually agreed. These updates shall, at a minimum, address progress on the Project and shall include, as appropriate, the hard bids for both horizontal and vertical construction prior to the Developer executing any contracts or agreements. In addition, the Developer shall provide quarterly reports to Town staff that include updates on Project costs, highlighting any fluctuations in construction expenses and significant soft cost items, such as insurance premiums and loan interest, review of the Budget and Schedule, and any other material information relevant to the development process. In the event of unforeseen increases in the cost of construction that are outside the control of Developer, Developer and Town will meet and confer regarding how to address and resolve such cost increases.

e. Timeline for Completion. Developer shall complete each Construction Phase within 18 months of the final framing inspection for the last unit in the phase; failure to do so shall be considered a breach of the Agreement and entitle Town to terminate for cause pursuant to Section 26(a).

23. 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.

24. 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.

25. Termination; Delay.

a. Termination by Town for Cause. Town may terminate the services of the Developer for cause, and take possession of the Project and all materials deemed part of the Project; provided, however, Town will reimburse Developer for any materials not already paid for by Town,. 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 workers, 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.
x. Substantial change in the controlling ownership of 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 following payment provisions apply:

i. In the event the Town terminates the Agreement prior to the authorization of Vertical Construction Phase I, the Developer shall be paid for all Development executed and any costs and expenses incurred, including payment of the Developer Fee to Infrastructure Developer for Horizontal Phase I construction incurred up until the date of termination.
ii. In the event the Town terminates the Agreement after the authorization of Vertical Construction Phase I, but prior to the authorization of Vertical Construction Phase II, the Developer shall be paid for all Development executed and any costs and expenses incurred, including the Developer Fee for Horizontal Phase construction and the entire Developer Fee for Vertical Phase I as set forth in the Budget.
iii. In the event the Town terminates the Agreement after the authorization of Vertical Phase II, the Developer shall be paid for all Development executed and any costs and expenses incurred, including the Developer Fee for Horizontal Phase construction and the entire Developer Fee for Vertical Phase I and II as set forth in the Budget.
iv. For purposes of this subsection (b), the term "costs and expenses incurred" shall include Developers costs and expenses resulting from Developer's performance under this Agreement as well as additional commercially reasonable costs and expenses related to the termination.

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, which suspension is not a result of the Town exercising its options under Sections

26(a) and (b).

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. 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.

v. 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. Subsequent to Termination under any provision in this Section 26, Developer shall provide a complete accounting up to the effective date of Termination of Development executed, costs and expenses incurred, and Developer Fee incurred within thirty (30) days of the effective termination date. 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 Section 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 all Development executed and any costs and expenses incurred, plus the remaining Developer Fee for the Vertical Construction Phase the Project was in at the time of termination.

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 under any provision, the ownership of all Planning Documents shall transfer from Developer to the Town. For purposes of this Section, "Planning Documents" shall not include architectural, engineering and construction plans and documents for the vertical construction of any units not yet permitted at the time of termination. Any plans transferred hereunder shall not be used for any other units at any location other than that specified in the construction documents.

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.

26. 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. To the fullest extent permitted by law, Town shall indemnify and hold Developer, its members and mangers harmless from and against all liability, damages, including legal fees and costs, claims and demands brought or asserted against Developer by a third party related to or in any way caused by Town's breach of this Agreement, including without limitation, arising from any act or failure to act as listed in Paragraph 26(c).

viii. 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. Resolution Of Disputes.

i. 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.

ii. 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.

iii. 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.

iv. 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.

l. 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.

m. 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.

n. 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.

o. 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.

p. Parties to the Agreement. There are two developer parties to this agreement; for the avoidance of doubt, Infrastructure Developer is a responsible party and liable only to the extent of those obligations specifically identified as belonging to Infrastructure Developer. All other obligations and required performance under this Agreement, whether specifically identified as such or not, belong to Developer and Developer is responsible and liable for them. In the event of any conflict between this Agreement and the GMP Agreement, the terms of the GMP Agreement shall prevail.

q. Force Majeure. No party shall be liable for any failure or delay in the performance of its obligations under this Agreement if such performance or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, terrorism, civil unrest, government action, strikes, lockouts, labor disputes, fire, flood, pandemic, earthquake, or other natural disasters. The affected party shal notify the other party as soon as reasonably possible and shall make all reasonable efforts to mitigate the effects of the force majeure event on the performance of its obligations under this Agreement.

r. Effective Date. This Agreement shall be effective upon the occurrence of both of the following:

i. 30 days after the Town has adopted an ordinance approving this Agreement; and

ii. Developer and Infrastructure Developer have both signed the Agreement.

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

TOWN OF BRECKENRIDGE

_____
Shannon Haynes, Town Manager

ATTEST:

_____
Mae Watson, Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Acknowledged, subscribed, and sworn to before me this _____ day of _____, 2025, Shannon Haynes as Town Manager of the Town of Breckenridge.

My commission expires: _____

(SEAL)

_____

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

My commission expires: _____

(SEAL)

_____

Infrastructure Developer:
The Runway Neighborhood Infrastructure, LLC, a Colorado limited liability company
By: Neighborhood Crafters, LLC Colorado limited liability company, as Manager of The Runway Neighborhood Infrastructure, 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 The Runway Neighborhood Infrastructure, LLC.

My commission expires: _____

(SEAL)

_____

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
Schedule

Summer 2025 – Phase One ground break for civil

August 2025 - Phase 1 Infrastructure Ground breaking

September 2025 – Vertical Construction Pricing check-in with Town Council

January 2026 – Phase 1 Final Vertical Pricing review and approval with Town Council

June 2026 – Phase 1 Vertical Construction start

September 2026 – Phase 2 Infrastructure review and approval (?) from Town Council

April 2027 – Phase 2 Infrastructure start (if approved by town council)

May 2027 – Phase 1 Vertical Construction first closings

May 2028 – Phase 2 Vertical Construction start

June 2029 – Phase 2 Vertical Construction first closing

March 2030 – Phase 1 Vertical Construction complete

December 2031 – Phase 2 Vertical Construction complete

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*