

## **PRELUDE DEVELOPMENT AGREEMENT**

THIS PRELUDE DEVELOPMENT AGREEMENT (the “**Agreement**”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between **PRELUDE INC.** \_\_\_\_ (the “**Applicant**”), and the **CITY OF GREEN COVE SPRINGS**, a municipal corporation organized and existing under the laws of the State of Florida (the “**City**”). City, and Applicant may sometimes be referred to herein, collectively, as the “**Parties.**”

A. The Applicant attests and warrants that it is the Owner of the property described in **Exhibit “A”** attached hereto and incorporated herein by this reference, which is located within City of Green Cove Springs Florida (the “**Property**”), and that Brian and Jennifer Knight, as the Officers of Applicant, are authorized to execute all binding documents on behalf of Applicant.

B. The Applicant has applied for site plan approval of a mixed-use project.

C. The Property has a Future Land Use Map (“**FLUM**”) designation of Central Business District. The Property is zoned to Central Business District and will be developed in accordance with these applicable future land use and zoning designations.

D. The City Council of the City has held a public hearings on January 17, 2023 to consider this Agreement, has found and determined that its execution of this Agreement will further the objectives of the Local Government Comprehensive Planning and Land Development Regulation Act, and that the development contemplated and permitted by this Agreement comply with the City’s Code.

E. The Applicant submitted a site development application to the City to develop a mixed use project to be called PRELUDE on the Property on September 20, 2021, with 38 apartment residential units, 8,726 sf Commercial-retail space, 2,880 sf of restaurant dining area (the “**Development**”).

F. The Applicant will improve certain public roadway, utility, and other improvements, both on the Property and off-site, to mitigate for impacts of the Development, as set forth herein.

G. The Applicant and the City desire to enter into this Agreement to provide for the provision of certain site improvements that will benefit the Development and the public.

H. This Agreement is consistent with the City Charter, the City 2045 Comprehensive Plan and the City Land Development Code, 4and other applicable law and serves a public purpose.

I. The City has determined that the following requirements have been met in that:

i. The City has adopted a local Comprehensive Plan that is in compliance.

The proposed development of the Property is consistent with the City of Green Cove Springs 2045 Comprehensive Plan, including the Future Land Use Map.

- ii. This Agreement constitutes a binding commitment on the part of the Applicant, its successors and assigns, to develop the Property consistent with the Comprehensive Plan and applicable provisions of the City of Green Cove Springs Land Development Code (the “**City Code**”).

J. The following is the Public Facility Schedule applicable to the development of the Property:

- i. Transportation. Transportation capacities will be provided by the City or other agency as set forth in its regulations and Capital Improvement Program, as amended from time to time, and in compliance with the provisions of this Agreement and the respective responsibilities of the parties.
- ii. Potable Water and Sanitary Sewer. The City of Green Cove Springs (the “**Utility**”) will provide adequate water and wastewater service to the Property in accordance with local government development orders and interlocal agreements that have been and will be issued for development of the Property from time to time. The Applicant will construct water and sewer line extensions necessary to serve the Property, as well as other improvements in compliance with the provisions of this Agreement and the respective responsibilities of the parties.
- iii. Solid Waste. The Applicant will be responsible for contacting a Commercial Containerized Collection service from the list of approved franchisees as set forth in section 66-10 of the City Land Development Code.
- iv. Drainage. Concurrently with development of the Property or portions thereof, the Applicant will provide drainage in accordance with St. Johns River Water Management District rules and in accordance with local government development orders that have been and will be issued for development of the Property from time to time, as well as other improvements in compliance with the provisions of this Agreement and the respective responsibilities of the parties.
- v. Parking. Concurrently with development of the Property or portions thereof, the Applicant will provide as much parking on site and parking in the ROW as possible. The city will joint venture with owner for additional parking and pedestrian conveyance as required in applicable provisions of the City Comprehensive Plan for the Property. The newly created parking spaces in the City ROW adjacent to the site, shall be:
  - i. Counted as required parking spaces; and
  - ii. Constructed and maintained by the owner; and
  - iii. In compliance with all requirements of the City Code; and

iv. Open to the public.

K. The population density and maximum height possible for the Development under its FLUM, and current City Code include all uses in the Downtown Central Business District.

L. This Agreement strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation and comprehensive planning and reduces the costs of development.

M. On July 19, 2022, the City Council approved the following development related incentives related to this project:

- i. A payment of \$100,000 in Commercial Development Incentives at time of approved site and building plan.
- ii. A waiver of parking mitigation fees beyond the parking provided onsite and in the right of way adjacent to the subject property.
- iii. A dollar-for-dollar credit for the repaving of Magnolia Avenue between Bay and Cove Street upon project completion.
- iv. A \$75,000 reduction in the electric Cost of Aid of Construction (CIAC) fees.

N. If the City revises their building permit fees by ordinance and that revision results, in a reduction in building permit fees for this project, the applicant is eligible for a reimbursement pursuant to the updated fees. This revision is only applicable for building permit fee revisions occurring in FY 2022/23.

O. Upon approval of the creation of a Downtown Community Redevelopment Agency, the applicant shall be able to request development incentives as set forth in the proposed Redevelopment Plan.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants, and conditions in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Findings of Fact**. The Recitals set forth above are true and correct and are incorporated herein by reference as Findings of Fact.

2. **Purpose and Intent**. The Applicant and the City desire to enter into this Agreement to address their respective responsibilities for both on-site and off-site improvements related to the Development. The Parties intend to utilize this Agreement to identify the methodology to be used for allocating costs for the potable water system, the sanitary sewer system, the stormwater system, electric system and the transportation system. In addition, the Agreement identifies the available credits to the Applicant, the potential for future credits, and the City's share of financial responsibility for improvements that may benefit the City's overall utility, stormwater and

transportation systems beyond that needed for this Development. The Parties do not intend to vest the Development to current land development regulations, and Applicant or its successors and assigns will be required to meet all applicable codes at the time individual development orders or permits are sought.

3. **Public Facility Improvements.** The City of Green Cove Springs will provide water and sanitary sewer services to the Property. The Applicant shall pay the water/sewer connection/tap costs at time of permit issuance and the impact/fees for units or structures within the project at the equipment check inspection. The Applicant shall abide by all applicable federal, state and local codes, design, permitting and construction standards, requirements, policies, rules and regulations for civil site plan, utilities, stormwater and buildings. In addition, the Parties agree to the following utility and infrastructure improvements:

A. Transportation Facilities

- i. See the provisions of Section 4 regarding Transportation Facilities capacities for the project.

B. Potable Water System.

- i. Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing potable water on-site to the Property for its intended uses.
- ii. Applicant agrees to provide to City of Green Cove Springs any necessary easements on, under and across the Property for the construction, operation and maintenance of the potable water system prior to the issuance of a Certificate of Occupancy.
- iii. Applicant shall be permitted to temporarily connect to the City water system upon building permit issuance. If temporary capacity is needed, the Applicant will provide such capacity in coordination with the City's Public Works Department.

C. Sanitary Sewer System.

- i. Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing sanitary sewer onsite to the Property for its intended uses.
- ii. Applicant agrees to provide to the City of Green Cove Springs any necessary easements on, under and across the Property for the construction, operation and maintenance of the sanitary sewer system.

- iii. Applicant shall be permitted to temporarily connect to the City sewer system for the first phase of the Development. If temporary capacity is needed, the Applicant will provide such capacity in coordination with the City's Public Works Department.

D. Solid Waste Collection

- i. Solid Waste Collection for the Property will be provided pursuant to the City franchisee agreement as set forth in Sec. 66-10 of the City Land Development Code. The City currently has sufficient capacity, unreserved, to provide solid waste collection services for the project.

E. Stormwater System.

- i. Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing stormwater capture, retention and treatment on-site to the Property for its intended uses.
- ii. Applicant agrees to provide to the City any necessary easements on, under and across the Property for the construction, operation and maintenance of the stormwater system.
- iii. The City of Green Cove Springs will allow connection for outfall piping to existing City storm system

F. Educational Facilities

- i. 8.5.1. Elementary School – Charles E. Bennett Elementary School
- ii. 8.5.2. Middle School – Green Cove Springs Middle School
- iii. 8.5.3. High School – Clay High School

The residential units are exempt from School Concurrency shall prohibit the occupancy of children under the age of 18 pursuant to Section 13.6(a)6) of the Interlocal Agreement for Coordinated Planning, Public Educational Siting and Review and School Concurrency in Clay County. A lease agreement limiting permanent residents to 18 years of age or older shall be recorded prior to Certificate of Occupancy. If in the future residential units allowing children under the age of 18 are allowed, school concurrency shall be satisfied pursuant to the requirements of the aforementioned School Concurrency Interlocal Agreement.

G. Recreational Facilities.

The Property is served by recreational facilities owned by the City including Spring Park which is located within 500 feet of the subject property.

H. Electric.

- i. The city will provide underground electrical services to the site. The city will provide all primary electrical transformers and primary wiring. The applicant will work with the city to provide adequate locations for services and provide all secondary services. On July 19, 2022, City Council approved a \$75,000 reduction of Cost in Aid of Construction (CIAC) fees. As a result, the City shall reduce the CIAC fees related to the undergrounding of the electric lines by \$75,000.
- ii. Applicant agrees to provide to the City any necessary easements on, under and across the Property for the construction, operation, and maintenance of the electrical service for this project and any neighboring project which may be necessary prior to the issuance of a certificate of occupancy.

4. **Transportation/Mobility Improvements.** The Applicant and the City will cooperate in providing the following transportation and mobility improvements related to the Development:

A. The Applicant shall construct, at the Applicant's expense all parking onsite and in city ROW as shown on site plan.

B. The Applicant shall maintain the existing roads Bay Street, Cove Street, and Magnolia Avenue to its current condition during construction.

C. The Applicant and the City agree that based on the Applicant's traffic study submitted with the companion site plan application for the Property, no proportionate fair share, mobility, or other similar mitigation payment shall be due related to the Development's projected impacts to the regional roadway network.

D. The Applicant and the City agree that based on the Applicants parking study shared parking is vital to the success of the project. The City has determined that the parking requirement for the development is as follow

- i. 38 Residential Units;
  1. 22 1-Bedroom Units 1.5 spaces per unit; require a total of 33 parking spaces.
  2. 16 2- Bedroom units require 2 spaces per units; require a total of 32 parking spaces
- ii. 8,726 Square of Feet of Retail
  1. 1 space per 250 square feet: require a total 35 parking spaces
- iii. 32,880 square feet of dining area;

- 1. 1 space per 65 square feet of dining area; require a total of 44 parking spaces
- iv. A minimum of 6 handicapped spaces shall be provided onsite.
- v. If the proposed unit #'s or square footages of uses are changed, then the parking requirements shall be revised pursuant to the parking requirements set forth in Sec. 113-157.
- E. Tree Mitigation. The applicant shall mitigate for the 103" of required trees that are to be removed from the site by adding the equivalent number of inches either onsite or offsite or through a payment to the City tree bank at \$148 per inch of tree for a total of \$15,244.

**5. Building and Site Design Requirements**

- A. Site Plan shall be substantially consistent with the Conceptual Rendering included in Exhibit B.

**6. Permitting.**

- A. The city will be responsible for review of plans and specifications for the building permit. Site Construction may begin during building plan review upon completion of a building footprint match with an approved site plan permit. No vertical construction can commence until the full building plan is approved and an operational fire hydrant, approved by the County Fire Marshall is available at or near the site location. Permit fees will be based on permit valuations that include the total value of work, including materials and labor, for which the permit is being issued, such as structural, life safety criteria, electrical, gas, mechanical, plumbing equipment and permanent systems.
- B. All requirements not specifically addressed in this Development Agreement shall comply with the Site Development requirements in the City Land Development Code.
- C. All required improvements shall be provided prior to the issuance of a Certificate of Occupancy.
- D. Development Permits Required.
  - i. The Local development permits approved or needed to be approved for the development of the project (or portions thereof) in accordance with the provisions of this Agreement, and the status of each such permit or approval are as follows:

PERMITS/APPROVALS	STATUS
Assignment of Future Land Use designation for 1.23 acres of property	Completed
Assignment of Central Business District (CBD) zoning to 1.23 acres of property	Completed

Approval of Site Development Plan for the entire Property	Pending
Approval of Building permits for the entire property	Pending
Water Management District Environmental Resources (stormwater) Permit	Pending

E. Magnolia Avenue between Bay and Cove Street shall be closed during construction for a period not to exceed 8 months. During the closure, the roadway can be used for the storage of construction related supplies, equipment parking and partial assembly. Upon completion of the project the street will be reconstructed to meet the specifications set forth in the City Land development Code Chapter 113, Article II , Division 2. – Streets. The reconstructed roadway shall be completed prior to issuance of first certificate of occupancy.

F. Nothing in this Agreement shall be deemed to obviate the Owner’s compliance with terms and provisions of each such identified Permit, nor to obligate the City, to grant any of the Permits, actions, or approvals enumerated above.

G. **Additional Permits, Etc.** The failure of this Agreement to address any particular permit, condition, term, or restriction on development shall not relieve the Owner, City or County of the necessity of complying with any law governing said permitting requirement, conditions, terms and restrictions with respect to the contemplated development of the Project, as applicable.

7. **Upgrades.**

A. The Applicant will be upgrading materials and construction of certain city items.

1. utilizing pavers for city sidewalks,
2. Upgrade to match spring park pole lights for city walk lights

8. **Development Timing.** The Property is intended to be developed in one phase. Construction will be commenced by Summer of 2023 and shall be completed by 2024. For purposes of the timing, “commencement” means securing approved construction drawings and permitting for the Development and “completion” is defined as completed for certificate of Occupancy. The timeline for commencement shall with the shall comply with Sec. 101-355(h) of the City Land Development Code.

9. **Authority and Duration.** This Agreement is effective through the thirtieth (30th) year anniversary of the Effective Date of this Agreement, and any extension of this Agreement.

10. **Amendment, Extension of Agreement.** If state or federal laws are enacted after the execution of this Agreement that are applicable to and preclude the Parties’ compliance with the terms of this Agreement, this Agreement shall be modified or revoked as necessary to comply



with the relevant State or federal laws, pursuant to Section 163.3241, Florida Statutes, as may be amended from time to time. The duration of this Agreement may be extended by the City pursuant to law, as may be amended from time to time.

11. **Necessity to Obtain Permits.** The Applicant acknowledges its obligation to obtain all necessary federal, state and other local development permits (not mentioned herein) for development of the Property. The failure of this Agreement to address any particular permit, condition, term or restriction applicable to development of the Property shall not relieve the Applicant or any successors or assigns of the necessity of complying with federal, state, and other local permitting requirements, conditions, terms or restrictions as may be applicable.

12. **Binding Effect.** The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement. When Applicant is used in this Agreement, it includes Applicant and any successors and assigns owning any rights to the Property, jointly and severally, assuming all their obligations set out in the Agreement, unless the obligations have been fully discharged.

13. **Joint Preparation.** Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

14. **Exhibits.** All exhibits attached to this Agreement contain additional terms of this Agreement and are incorporated into this Agreement by reference.

15. **Captions or Paragraph Headings.** Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision of this Agreement.

16. **Counterparts.** This Agreement may be executed in counterparts, each constituting a duplicate original; such counterparts shall constitute one and the same Agreement.

17. **Effective Date.**

A. This Agreement shall become effective upon the occurrence of all of the following events: (1) the approval of the site development plan, (2) execution of this Agreement by all Parties; (3) and the recordation of the Agreement in the Public Records of Clay County, Florida.

B. Notwithstanding the foregoing:

C. The parties shall be obligated to perform any such obligations hereunder that are required before such Effective Date; and

18. **Amendment.** This Agreement may be amended, cancelled or revoked consistent with the notice and hearing procedures of the City of Green Cove Springs, Florida, as may be amended from time to time.

19. **Further Assurances.** Each party to this Agreement agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the City, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

20. **Notices.** Any notices or reports required by this Development Agreement shall be sent to the following:

To the City:                   City Manager  
                                      City of Green Cove Springs  
                                      321 Walnut Street  
                                      Green Cove Springs, Florida 32043

With copies to:               Jim Arnold, Attorney  
                                      City of Green Cove Springs  
                                      P.O. Box 1570  
                                      Green Cove Springs, Florida 32043  
                                      cityattorney@greencovesprings.com

To the Applicant:           PRELUDE  
                                      Attn: Brian and Jennifer Knight

**PASSED ON READING BY THE CITY COUNCIL OF THE CITY OF GREEN  
COVE SPRINGS, FLORIDA, THIS 17TH DAY OF JANUARY 2023.**

**CITY OF GREEN COVE SPRINGS, FLORIDA**

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Daniel M. Johnson, Mayor

ATTEST:

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Erin West, City Clerk

APPROVED AS TO FORM:

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L.J. Arnold, III, City Attorney

Signed, sealed and delivered in the presence of:

PRELUDE

, a \_\_\_\_\_ corporation

\_\_\_\_\_  
Witness

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Witness

Print Name: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_ online notarization on this day \_\_\_ of \_\_\_\_\_, 2023, by \_\_\_\_\_, as \_\_\_\_\_ of PRELUDE, on behalf of the corporation, who is (check one)  personally known to me or  has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**EXHIBIT "A" The "Property"**

**Legal Description**

**LOTS 1, 2, S AND 4, BLOCK 20, GREEN COVE SPRINGS, ACCORDING TO THE  
PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 40 OF THE PUBLIC  
RECORDS OF CLAY COUNTY FLORIDA**

**EXHIBIT "B"**

**Conceptual Rendering**

