

DEVELOPMENT INCENTIVE AGREEMENT

THIS DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") is made as of _____, 2025, by and between the CITY OF HERMISTON, an Oregon municipal corporation, the "City" and THE HUB HERMISTON, LLC, an Oregon limited liability company ("Developer"). City and Developer are referred to jointly in this Agreement as "Parties" and individually as a "Party."

RECITALS

WHEREAS, Developer is a development company whose principal has experience in development and construction of housing complexes. Developer proposes to construct an apartment complex of not less than 270 multi-family rental units, in one or more phases, beginning in 2025.

WHEREAS, the City has recognized that there is a need for additional housing development in Hermiston and wishes to support the growth of housing development. The Hermiston City Council reviewed the proposed development and found it to be consistent with the City Council Goal of increasing quality housing in Hermiston.

WHEREAS, housing development within the City benefits the City by enhancement of the taxable tax base.

AGREEMENT

In consideration of the agreements between the Parties set forth herein and for other valuable consideration, including, but not limited to the agreement by City to reimburse Developer for future tax liability for development to occur on the Property, the receipt and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

1. Definitions. The following terms have the designated meanings in this Agreement:
 - A. "Agreement" means this Development Incentive Agreement and all Exhibits attached hereto and incorporated herein.
 - B. "City" is defined above.
 - C. "Development" means the construction of an approximately 270-unit market rate apartment complex, including infrastructure, utilities, structures, landscaping and attendant incidentals, to be constructed by Developer, at its expense, on the Property. Developer's preliminary plan for the Development is represented in Exhibit A, attached hereto.
 - D. "Developer" is defined above.
 - E. "Market Rate Apartment Complex" means a multi-family residential rental property where rents are determined by supply and demand in the real estate market, without any governmental subsidies or special assistance.
 - F. "Property" means land located at 963 E Diagonal Blvd, Hermiston, Oregon.

2. Effective date/Term. This Agreement shall be effective (the "Effective Date") upon the execution of this agreement. The term of this Agreement shall be from the Effective Date through the 2032 tax year. If Developer has not commenced construction of the Project within three years of the Effective Date, this Agreement will terminate unless extended by agreement of the Parties, which agreement will not be unreasonably conditioned, withheld or delayed.
3. Use Allowed for Reimbursement. The authorized use for reimbursement by this Agreement is a Market Rate Apartment Complex and accessory structures located on the Property substantially in conformance with Exhibit A. City shall have and exercise no control over the construction of the Development, other than its administrative role. Developer shall insure that the Development shall comply with all applicable zoning and land use requirements for the Property, at its sole expense. Developer shall carry out its construction work on the Development in compliance with all applicable Federal, State, and Local laws, rules, and regulations.
4. Tax Reimbursement. To incentivize Developer to timely complete the Development, City will agree to reimburse a certain percentage of Developer's property tax obligation for its real property taxes to Umatilla County for the tax years 2026, 2027, 2028, 2029, 2030, 2031, and 2032 at the following rates:

A. Property Tax Reimbursement Rate:

2026: 100%
2027: 100%
2028: 75%
2029: 50%
2030: 50%
2031: 25%
2032: 0%

B. Reimbursement Process.

1. Developer shall submit to the City documentation evidencing property tax payments made for the Development, including but not limited to:
 - a. Property tax bills issued by the relevant taxing authority;
 - b. Proof of payment of such property tax bills; and
 - c. Any other documentation reasonably requested by the City to verify the property tax payments.
2. Within 30 days of receipt of complete documentation from the Developer, the City shall review and verify the property tax payments.
3. Upon verification, the City shall reimburse Developer for the verified property tax payments within 60 days.

C. Limitations.

1. The City's reimbursement obligation shall be limited to property taxes directly attributable to the Development.

2. Reimbursement shall not include any penalties, interest, or other charges incurred due to late or incomplete payment of property taxes by developer.

D. Developer's Obligations.

1. Developer shall timely pay all property taxes for the Development when due.
2. Developer shall maintain accurate records of all property tax payments and provide access to such records upon reasonable request by the City.

5. Continuing Effect of Agreement. In the case of any change in regional policy or federal or state law or other change in circumstance which renders compliance with this agreement impossible or unlawful, the parties will attempt to give effect to the remainder of this agreement, but only if such effect does not prejudice the substantial rights of either party under this agreement. If the substantial rights of either party are prejudiced by giving effect to the remainder of this agreement, then the parties shall negotiate in good faith to revise this agreement to give effect to its original intent. If, because of a change in policy, law or circumstance, this agreement fails of its essential purpose then the parties shall be placed into their original position to the extent practical. It is the intent of this agreement to vest development rights and conditions, including but not limited to the permitted uses, density and intensity of uses, infrastructure improvement and fees and charges as set forth in this agreement, notwithstanding any change in local ordinance or policy.

6. Breach/Remedies.

A. Default and Cure. The following shall constitute defaults on the part of a Party:

1. A breach of a material provision of this agreement, whether by action or inaction of a party which continues and is not remedied within sixty days after the other party has given notice specifying the breach; provided that if the non-breaching party reasonably determines that such breach cannot with due diligence be cured within a period of sixty days, the non-breaching party may allow the breaching party a longer period of time to cure the breach, and in such event the breach shall not constitute a default so long as the breaching party diligently proceeds to effect a cure and the cure is accomplished within the longer period of time granted by the non-breaching party; or
2. Any assignment by a party for the benefit of creditors, or adjudication as a bankrupt, or appointment of a receiver, trustee or creditor's committee over a party.

- B. Each party shall have all available remedies at law or in equity, to recover damages and compel the performance of the other party pursuant to this agreement. The rights and remedies afforded under this Agreement are not exclusive and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by either party of any one or more of such remedies shall not

preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or any of its remedies for any other default or breach by the other parties, including, without limitation, the right to compel specific performance.

C. Additional Remedies. If Developer is in default, and after notice from City, is unable to cure within the 60 day period provided above, City:

1. may, by written notice, terminate this agreement; and
2. will be relieved of any further obligation to Developer.

7. Assignment Provisions.

A. No Assignment.

1. Prior to the completion of the Development, Developer may not assign any of its rights or obligations under this Agreement except to a Developer Entity controlled by Developer or Developer's sole member. Notwithstanding the form of the Developer Entity's structure, Developer's sole member will remain in charge of Developments daily operations.
2. This prohibition will not prevent the granting of easements, licenses or permits to facilitate the development of the Property consistent herewith.
3. Approved Pre-Completion Transfers. Notwithstanding Section 8(A)(1), and provided that Developer provides City with copies of all agreements related to a proposed transfer at least ten (10) business days prior to the effective date of the proposed transfer and provides to City any other information reasonably requested by City to determine that such proposed transfer complies with the requirements of this Agreement.
4. Developer shall not be relieved of its obligations under this Agreement by reason of any such permitted transfer unless expressly agreed to in writing by City.

8. Disposition and Termination. This agreement will terminate and be of no further effect upon the occurrence of any of the following:

A. Failure of Developer to commence work on the Project within three years of the effective date.

B. As otherwise provided in this Agreement.

9. Indemnification. Developer agrees to indemnify, defend and hold harmless the City and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of Developer's officers, agents and employees, in performance of any portion of this agreement. Subject to the Oregon Tort Claims Act, City agrees to indemnify, defend and hold harmless Developer and its officers, agents and employees against all

liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of City, and City's officers, agents and employees, in performance of any portion of this agreement.

10. Discrimination. Developer, for itself and its successor and assigns, agrees that during the construction of the Project that it 'Will not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, sexual orientation or national origin.
11. Notice. Any notice or communication under this Agreement by either Party to the other shall be deemed given or delivered seventy-two (72) hours after being dispatched by private messenger service, or registered or certified U.S. mail; postage prepaid, return receipt requested, and:

In the case of a notice or communication to Developer, addressed as follows:

The Hub Hermiston, LLC Attn:
Jeffrey Bivens
27375 SW Parkway Ave
Wilsonville, OR 97070

In the case of a notice or communication to the City, addressed as follows:

City Manager
City of Hermiston
180 NE 2nd Street.
Hermiston, OR 97838

or, addressed in such other way in respect to either Party as that Party may, from time to time, designate in writing dispatched as provided in this Section. Notice given in any other manner shall be effective upon receipt by the Party for whom the same is intended.

12. Time of the Essence. Time is of the essence of this Agreement.
13. Merger. None of the provisions of this Agreement are intended to or shall be merged by reason of the Contract of Sale or the conveyance contemplated thereunder of the Property from City to Developer or any successor in interest, and any such conveyance shall not be deemed to affect or impair the provisions and covenants of this Agreement, but shall be deemed made pursuant to this Agreement.
14. Headings. Titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
15. Waivers. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition inuring to its

benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver. No waiver by City or Developer of any provision of this Agreement or any breach thereof, shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.

16. Attorney Fees. If a suit, action, arbitration, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorney, paralegal, accountant, and other expert fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorney fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.
17. Choice of Law/Place of Enforcement. This Agreement shall be governed by Oregon law and venue shall be in the Circuit Court of Umatilla County, Oregon. Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought' in the Circuit Court of the State of Oregon for Umatilla County, or the United States District Court for the District of Oregon in Hermiston, Oregon.
18. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or legal holiday.
19. Force Majeure. Means causes that are beyond a Party's reasonable control, and without a Party's fault or negligence, including but not limited to acts of God, acts of the public enemy, acts of the government, acts of the other Party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquake, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, materials or supplies in the open market, litigation or arbitration involving a Party or others relating to zoning or other governmental action or inaction pertaining to the Project, delay in the issuance of necessary permits for the Project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar events and/or occurrences beyond the control of such Party. Any time limits contained in this Agreement will be extended by the number of days of any Force Majeure delays.
20. Construction. In construing this Agreement, singular pronouns shall be taken to mean and include the plural and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.

21. Severability. If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.
22. Entire Agreement. This Agreement and the attachments hereto is the entire agreement between the Parties. There are no other oral or written agreements between the Parties with regard to this subject matter. There are no oral or written representations made by either Party, implied or express, other than those contained in this Agreement.
23. Modifications. Any modifications to this Agreement shall be made in writing and executed by both Parties. The Parties recognize that circumstances may change and that it maybe in the interest of both Parties that this Agreement be amended from time to time. For this reason, each of the Parties will reasonably consider changes that may be proposed by the other during effectiveness of this Agreement.
24. Successors and Assigns. The benefits conferred by this Agreement, and the obligations assumed thereunder, shall inure to the benefit of and bind the successors and assigns of the Parties.
25. No Partnership. Nothing contained in this Agreement, or any acts of the Parties hereby shall be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between any of the Parties.
26. Execution in Counterparts; Electronic Transmittal. This document may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Said counterparts may be transmitted by one party to the other by facsimile or electronic mail.

Approved by the Hermiston City Council on _____, 2025.

[SIGNATURE PAGE(S) TO FOLLOW]

I HAVE READ THIS AGREEMENT INCLUDING THE ATTACHMENT(S). I CERTIFY THAT I HAVE THE AUTHORITY TO SIGN AND ENTER INTO THIS AGREEMENT. I UNDERSTAND THIS AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS.

THE HUB HERMISTON, LLC

Signature: _____ Title: _____

Name (print): _____ Date: _____

CITY OF HERMISTON

Signature: _____ Title: _____

Name (print): _____ Date: _____

EXHIBIT A

SCOPE OF DEVELOPMENT